

**§ 384.7 Organization and delegation of authority.**

(d) The Bureau of Fares and Rates, which is the ratemaking component of the Board. Staff work on commercial passenger, baggage, and freight rates, service mail rates, subsidy rates, and military charter rates is the role of this Bureau.

(j) The Office of Economic Analysis, which is responsible for studying demand for air transportation under various conditions of price and service, and forecasting future demand; advising the Board and staff on the economic impact of Board actions, and on the financial structure and condition of individual air carriers and the industry in general; providing economic counsel, analysis and testimony in Board proceedings; assisting in the development of economic recommendations about U.S. international aviation relations and general regulatory policy; and working with other agencies and departments on economic matters related to airline regulation.

(Sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788 (49 U.S.C. 1324, 1481); Reorganization Plan No. 13 of 1950, 64 Stat. 1266 (5 U.S.C. Appendix).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 77-27552 Filed 9-21-77; 8:45 am]

**Title 18—Conservation of Power and Water Resources**

**CHAPTER I—FEDERAL POWER COMMISSION**

**SUBCHAPTER C—ACCOUNTS, FEDERAL POWER ACT**

[Docket No. R-424]

**PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (CLASS A AND CLASS B)**

**SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT**

**PART 141—STATEMENTS AND REPORTS (SCHEDULES)**

**SUBCHAPTER F—ACCOUNTS, NATURAL GAS ACT**

**PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT (CLASS A AND CLASS B)**

**PART 204—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT (CLASS C AND CLASS D)**

Accounting for Premium, Discount, and Expense of Issue, Gains, and Losses on Refunding, and Reacquisition of Long-Term Debt, and Interperiod Allocation of Income Taxes

AGENCY: Federal Power Commission.

ACTION: Order denying application for rehearing of order No. 505-B.

**SUMMARY:** This order denies an application, filed August 8, 1977, by Texas Eastern Transmission Corp. and Interstate Natural Gas Association of America for rehearing of the Commission's Order No. 505-B, issued July 8, 1977, and published July 26, 1977 (42 FR 37970). The application for rehearing is being denied because it raises no material facts or principles of law which warrant a change in Order No. 505-B; all arguments raised in the application were fully considered and rejected by the Commission in prior orders in this docket.

**EFFECTIVE DATE:** September 7, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Kenneth F. Plumb, Secretary, 202-275-4166.

**ORDER DENYING APPLICATION FOR REHEARING OF ORDER NO. 505-B**

SEPTEMBER 7, 1977.

On July 8, 1977, the Commission issued Order No. 505-B in which it affirmed Order No. 505, 51 FPC 715 (1974), and Order No. 505-A, 51 FPC 832 (1974), by requiring that jurisdictional utilities and natural gas companies use accounting procedures which follow the rate treatment prescribed by the Commission for gains and losses from the reacquisition of debt. Texas Eastern Transmission Corp. and Interstate Natural Gas Association of America (collectively the Petitioners) filed jointly on August 8, 1977, an application for rehearing. For the reasons discussed, the Commission shall deny the Petitioners' application.

The Petitioners have raised no material facts or principles of law which warrant a change in Order No. 505-B. All of the Petitioners' arguments were raised by the same Petitioners at earlier stages of this rulemaking. Those arguments were fully considered and rejected by the Commission in the prior orders in this docket. In view of the lack of any new or convincing arguments which would require a different result in Order No. 505-B, the Commission shall deny the application for rehearing.

**The Commission orders:** (A) The Petitioners' application for rehearing, filed on August 8, 1977, is denied.

(B) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 77-27121 Filed 9-21-77; 8:45 am]

**Title 19—Customs Duties**

**CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY**

[T.D. 77-233]

**PART 22—DRAWBACK**

**Verification of Drawback Claims**

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

**SUMMARY:** This rule eliminates the requirement that Customs verify (audit)

certain drawback documents as they are received. The expense involved in verifying the documents as they are received is not justified. The affected drawback documents will now be verified at random or whenever the regional commissioner believes verification is needed.

**EFFECTIVE DATE:** October 25, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Jerry C. Laderberg, Attorney, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5856).

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

"Drawback" denotes a situation in which a duty or tax, lawfully collected, is refunded or remitted, wholly or partially, because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of drawback is that allowed upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise (section 313(a), Tariff Act of 1930 (19 U.S.C. 1313(a))). Part 22 of the Customs Regulations (19 CFR Part 22) contains provisions regarding drawback claims.

Prior to approving claims for drawback of duties, Customs must verify (audit) the claim and the related drawback documents pursuant to § 22.43 of the Customs Regulations (19 CFR 22.43). Paragraph (d) of that section, as amended by T.D. 76-119 on April 30, 1976 (41 FR 18071), provides that schedules, supplemental schedules, and supplemental advisory schedules, when not incorporated in a drawback statement or supplemental statement, shall be verified when received. In many instances, the various schedules (which show the quantity of imported materials used or appearing in each finished article) are filed after the filing of the drawback statement or supplemental statement (which described the methods of manufacture or production that will be followed and the records that will be kept by each manufacturer or producer of articles intended for exportation with benefit of drawback).

Upon review, Customs has now determined that the expense involved in verifying the schedules as they are received is not justified. Therefore this amendment eliminates that requirement by deleting present paragraph (d) of § 22.43. The various schedules will now be verified at random or whenever the regional commissioner believes that verification is required for the orderly and efficient administration of the drawback law and regulations. This amendment also consolidates the text of present paragraphs (e) and (f) of § 22.43 into a new paragraph (d) for clarity.

Because this amendment pertains solely to agency procedure or practice it is exempt from the notice requirements of 5 U.S.C. 553.



## DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

## AMENDMENTS TO THE REGULATIONS

Accordingly, Part 22 of the Customs Regulations (19 CFR Part 22) is amended in the following manner:

Section 22.43 is amended by deleting paragraphs (d), (e), and (f), and by adding a new paragraph (d) to read as follows:

## § 22.43 Verification of drawback claims.

(d) In addition to taking any actions prescribed in this section, the regional commissioner shall refer drawback documents to the regional Regulatory Audit Division for verification at random or whenever he believes verification is required for the orderly and efficient administration of the drawback law and regulations.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 66, 1624).)

G. R. DICKERSON,

Acting Commissioner of Customs.

Approved: September 12, 1977.

BETTE B. ANDERSON,

Under Secretary of the Treasury.

[FR Doc. 77-27724 Filed 9-21-77; 8:45 am]

## Title 26—Internal Revenue

## CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7500]

## PART 7—TEMPORARY REGULATIONS FOR INVESTMENT CREDIT FOR CERTAIN MOVIE AND TELEVISION FILMS

## Election Under Section 804(e)(2) of the Tax Reform Act of 1976

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the election with respect to the investment credit for movie and television films and tapes that are property described in section 50(a) of the Internal Revenue Code of 1954. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the motion picture and television industry with the guidance needed to make the election under section 804(e)(2) of the Act.

DATES: The election under section 804(e)(2) of the Act must be made not later than October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence M. Axelrod of the Legislation and Regulations Division, Office

of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-4454, not a toll-free call).

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

This document contains temporary regulations relating to the election under section 804(e)(2) of the Tax Reform Act of 1976. Under section 804(e)(2) of the Act, taxpayers may elect to apply the amendments made by section 804(a) and (b) of the Act to movie and television films that are property described in section 50(a) of the Internal Revenue Code of 1954 and that were placed in service in taxable years beginning before January 1, 1975. The election is to be made by filing amended returns for all taxable years to which the election relates not later than October 4, 1977. Accompanying the amended returns must be a statement containing substantially the same information required by § 7.48-2(b)(2), (3), and (4).

## DRAFTING INFORMATION

The principal author of these temporary regulations was Lawrence M. Axelrod of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

## PROPOSED AMENDMENT TO THE REGULATIONS

The proposed amendment to 26 CFR Part 7 is as follows:

The following new section is added immediately after § 7.48-2.

§ 7.48-3 Election to apply the amendments made by sections 804(a) and (b) of the Tax Reform Act of 1976 to property described in section 50(a) of the Code.

(a) *General rule.* Under section 804(e)(2) of the Tax Reform Act of 1976 (90 Stat. 1596), taxpayers may elect to apply the amendments made by section 804(a) and (b) of the Act to movie and television films that are property described in section 50(a) of the Code and that were placed in service in taxable years beginning before January 1, 1975.

(b) *Time for and manner of making election.*—(1) *Time for making election.* The election under section 804(e)(2) of the Act must be made not later than October 4, 1977.

(2) *Manner of making election.* The election under section 804(e)(2) shall be made by applying the same rules applicable under section 804(c)(2) as described in § 7.48-2(b)(2), (3), and (4) except that § 7.48-2(b)(2)(ii) shall be read to require a statement that the taxpayer is making an election under section 804(e)(2) of the Act, and § 7.48-2(b)(2)(vi) shall not apply. An election properly made under section 804(e)(2)

of the Act may not be revoked after October 4, 1977.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805); sec. 804(e)(2), Tax Reform Act of 1976 (90 Stat. 1596).)

JEROME KURTZ,  
Commissioner of  
Internal Revenue.

Approved: September 19, 1977.

LAURENCE N. WOODWORTH,  
Assistant Secretary  
of the Treasury.

[FR Doc. 77-27876 Filed 9-20-77; 4:12 pm]

## Title 29—Labor

## CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## PART 1601—PROCEDURAL REGULATIONS

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission published its proposed procedural regulations for notice and comment by the public since it was implementing a major agency reorganization and wished to obtain public comment. Those regulations, printed here in final form, are designed to improve the agency's administration and enforcement of Title VII of the Civil Rights Act of 1964, as amended.

EFFECTIVE DATE: September 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2224, EEOC, 2401 E Street NW., Washington, D.C. 20506. (202-634-6460).

SUPPLEMENTARY INFORMATION: On August 19, 1977, the Equal Employment Opportunity Commission published a proposed revision of its procedural regulations (42 FR 42022) which appear at 29 CFR Part 1601. Although the Commission is not required to publish its procedural regulations for notice and comment, the Commission did so in this instance because it decided that public comment would be useful. In addition, during the period of public notice and comment, the Commission initiated its second review of the proposed regulations.

All public comments received by close of business September 9, 1977, were considered. (Comments received after that time will be reviewed for possible future Commission action.) Those of the 16 public commentators who addressed the overall thrust of the new regulations were favorable in their responses. Additionally, most of the public commentators asked for further definition of material appearing in the regulations, reflecting an interest in the actual implementation of the regulations. Such comments were not accepted insofar as they suggested amendment of the regulations. This is



because all requests for further specificity and detail will be met by the issuance of appropriate instructional manuals to staff, including the revision of the Commission Compliance Manual, which will be made available to the public.

A discussion of the substantive comments received, other than those asking for more detail as to implementation of the regulations, appears below.

**Section 1601.6.** One commentator suggested that it would be appropriate to indicate in this section that a charge may be dismissed based on the information submitted to the Commission. The procedure providing authority for such dismissals exists in these regulations in § 1601.19.

**Section 1601.7.** A number of commentators suggested on various grounds that the sentence which permits persons who have had charges filed on their behalf to request that their identities be kept confidential should be limited in its applicability or eliminated entirely. The major reasons urged to support the suggestion were inability of respondents to attempt to justify or resolve matters where they are not informed of the details of an allegedly unlawful action, and absence of a need for confidentiality because of the prohibition against retaliation provided in section 704(a), of Title VII.

The Commission recognizes that in certain cases it is difficult and sometimes impossible to resolve a charge without revealing the identity of the person claiming to be aggrieved, and does not contemplate a necessity for keeping the identity confidential in all cases where the request is made. In at least some instances an individual will have to be presented with a choice of revealing his or her identity or precluding the Commission from initiating or concluding its investigation. The Commission cannot, however, eliminate the confidentiality provision. The legislative history of the 1972 amendments to section 706(b) of Title VII indicates that the "on behalf of" phrase was intended to "enable aggrieved persons to have charges processed under circumstances where they are unwilling to come forward publicly for fear of economic or physical reprisals." "Legislative History of the Equal Employment Opportunity Act of 1972," Subcommittee on Labor, Committee on Labor and Public Welfare, U.S. Senate, 92nd Cong., 2nd Sess. at page 1845 (1972). It should be stressed that this regulation applies only to charges filed on behalf of persons claiming to be aggrieved and only in those instances where confidentiality is affirmatively requested.

**Section 1601.10.** Several commentators suggested on various grounds that this section be changed to provide that the person claiming to be aggrieved and/or the person filing on behalf of such person has a right to withdraw the charge without the consent of a Commission official. The major reasons expressed in support of these suggestions were that the charging party has an inherent right to withdraw his or her charge, and that the re-

fusal to permit withdrawal may result in the charge being used by the Commission for purposes not intended by the charging party.

The Commission contemplates procedural instructions to staff providing that consent to withdrawal of a charge will be withheld only in a very narrow range of circumstances. However, in certain circumstances the public interest would not be served were the Commission to cease processing the charge.

Upon review, the Commission has determined to delete the phrase "original filing date" from subsection (b) and substitute "date the charge was first received" in order to clarify the meaning of the section.

**Section 1601.13(a).** Upon review, the Commission has determined that the relationship between the distinct filing requirements of sections 706(e) and 706(c) of Title VII would be clarified by making parallel the language of subsection (a) and the subsection numbered (c)(2) in the proposed regulations. For this reason the phrase "of satisfying the filing requirement" now contained in renumbered subsection (d)(2) also appears in subsection (a).

**Section 1601.13(b).** Upon review, the Commission has determined that it is appropriate to make explicit that the Commission will assume jurisdiction over a charge upon receipt where it is not subject to the jurisdiction of a 706 Agency. All succeeding subsections have been renumbered to accommodate the statement numbered (b).

**Section 1601.13(c)(1).** Upon review, the Commission has deleted the last two sentences contained in the proposed regulations at subsection (b)(1) because the reference to prior procedure is no longer appropriate.

**Section 1601.13(c)(3).** A few commentators questioned the authority of a 706 Agency to make an effective waiver of its right to exclusively process charges during the deferral period established by section 706(c) of Title VII, where the 706 Agency has not terminated its processing of the charge. The legislative history and case law indicate that the purpose of the deferral provision of section 706(c) was to guarantee State and local governments that wished to create or maintain fair employment practice agencies the opportunity to process charges for a period of time prior to any action by the Commission. That opportunity is in no way diminished by the waiver procedure outlined in this subsection.

Upon review, the Commission has determined that its procedure would be more clearly expressed by indicating that where a 706 Agency has waived its right to exclusively process a charge the Commission will assume jurisdiction over the charge "upon receipt."

**Section 1601.13(d)(1)(ii).** One commentator argued that the proceedings of 706 Agencies cannot be deemed to have commenced until the 706 Agency receives a copy of the allegation of discrimination. The Commission's longstanding procedure of counting the deferral period from the date on which

such allegations are mailed is authorized by the last sentence of section 706(c) of Title VII which states that such proceedings "shall be deemed to have been commenced . . . at the time such statement is sent by registered mail . . ."

**Section 1601.13(d)(2).** One commentator argued that the Commission should require 706 Agencies to cease processing a charge when the Commission assumes jurisdiction over the charge. The Commission recognizes the burden to respondents and the inefficient use of governmental resources which could be involved in any simultaneous investigations conducted by the Commission and 706 Agencies. It contemplates the establishment and expansion of work-sharing agreements with 706 Agencies which provide that only one agency will have primary responsibility for the initial investigation. The Commission does not have the authority to require a 706 Agency to terminate its proceedings.

**Section 1601.13(f).** Upon review, the Commission has determined that its procedure would be more clearly expressed by adding that the Commission may "make a preliminary investigation" for purposes of determining the need for relief pursuant to § 706(f)(2) of Title VII, notwithstanding the deferral provisions of Title VII.

**Section 1601.13(g).** Upon review, the Commission has determined that its procedure would be more clearly expressed by specifying the date on which a charge by a member of the Commission is deemed filed. A new sentence for this purpose has been added to the subsection numbered (f) in the proposed regulations.

**Section 1601.14.** The Commission received suggestions that a copy of the charge be served upon respondents in all instances, as well as suggestions that the notice be substituted for the charge only in rare circumstances. The title of this section has been changed to "service of a charge or notice of a charge" to reflect the Commission's intent to serve the charge in most instances. It was also suggested that a respondent be notified of the deferral of a charge within 10 days of receipt. The Commission contemplates continuing its procedure of notifying respondents when a charge has been deferred to a 706 Agency.

**Section 1601.15(b).** A wide range of comment was received regarding this subsection. Commentators suggested that the section be revised to provide that the Commission "shall require" the person claiming to be aggrieved to provide the information specified in this subsection. Other commentators suggested that the Commission should not require a charging party to provide the information because the charging party may not reasonably have the information or may lack the technical competence to identify and provide the information.

The Commission believes that discretion must be retained with regard to the requirements of § 1601.15(b). Although the Commission contemplates requiring the information from the charging party



in all circumstances where the charging party possesses the information, it would be inappropriate for the Commission to require the charging party to provide information not reasonably within his or her knowledge. Recognizing that most charging parties are not trained in the requirements of Title VII, the Commission intends to provide assistance to charging parties in identifying and providing the information during the course of the intake process.

**Section 1601.15(c).** A wide range of comment was also received regarding this subsection. A few commentators argued that the fact-finding conference is unauthorized by Title VII; other commentators stated that the fact-finding conference should be mandatory in every case or that either party should be able to demand a fact-finding conference. A number of commentators expressed concern that the conference would be scheduled at inconvenient times or places making it difficult for the parties to attend.

The procedure for fact-finding conferences is one of the several techniques to be used by the Commission to investigate charges of discrimination. There are instances, however, in which a fact-finding conference would be inappropriate, e.g., if there is no factual issue in dispute, and therefore the Commission rejects the suggestion that it be mandatory in every case or at either party's request. Further, the Commission recognizes that the circumstances of the parties may occasionally make it unreasonable to have the parties meet together, e.g., where a charging party is employed in a location distant from the District Office or other appropriate meeting places.

**Section 1601.16.** Several commentators objected to the delegation of authority to issue subpoenas to "any representative designated by the Commission," arguing that it was an unwarranted expansion of the number of persons accorded such authority. The inclusion of this language in the regulation does not expand the number of persons authorized to issue a subpoena, but it does recognize the possibility that the Commission may wish to designate additional officials at a subsequent time.

One commentator suggested that the section be amended to provide that materials subpoenaed must be relevant to the Commission's investigation. The Commission recognizes that it is empowered to subpoena only relevant information, but believes that this requirement is sufficiently clear in the body of subpoena law and need not be included in the regulation.

Additionally, it was suggested that the Regional Director review each subpoena before issuance. The Commission believes that this requirement is unnecessary and would make the subpoena process unduly cumbersome.

It was suggested that the Commission exercise caution in adopting the N.L.R.A. enforcement procedure noted at subsection (c). This authority is provided by statute and has been used by the Commission since the 1972 amendments to Title VII.

Upon review, the Commission has determined to insert the language "the person filing a charge on behalf of such person" after "aggrieved" in the final sentence of subsection (a). The addition of this language reflects the Commission's current practice.

In addition, the Commission has determined to modify the subpoena appeal procedures in light of the introduction of Model Offices. Where the subpoena is issued by the Director of a Model Office, the initial petition to revoke or modify shall be mailed to that Director for determination. Any appeal from that determination to the Commission would be made by following procedures similar to present procedures for revocation or modification of subpoenas. In non-model offices, the procedures in the proposed revision of the procedural regulations, 42 FR 42022, are still applicable.

**Section 1601.17.** A few commentators questioned the authority of the Commission to compel testimony at public hearings. While the Commission recognizes that it may not wish to assert this authority in all instances, it retains this section as proposed, for use in appropriate instances as necessary for carrying out the purposes of Title VII.

**Section 1601.19.** A number of comments were received on this section. Many sought more clarification or concerned matters which will be contained in staff manuals. Comments varied widely. One commentator stated that the Commission must dismiss if a claimant refused to proceed, while another commentator stated that there should be no dismissal for failure to attend a fact-finding conference. The Commission has decided not to accept these comments. In the instance of a dismissal of a charge, a certain degree of discretion must be exercised. Staff manuals will contain guidance on these matters, will retain flexibility, and will be designed to provide for dismissal in the situations discussed only where the action or inaction of the person claiming to be aggrieved is deliberate.

Upon its own consideration of this section, the Commission has decided to make the following changes.

Subsection (a) is modified to provide that charges raising claims exclusively under section 717 of Title VII will not be taken, but the Commission shall refer the person to the appropriate federal agency. Subsection (e) is modified by inserting a cross-reference to § 1601.20. Subsection (f) is modified in two respects. The word "A" is removed from the first line of this subsection to preclude any inference that the notice of disposition provided will always be an independent document separate from the notice of right to sue. The Commission's notice of right to sue will itself include the notice of disposition in most instances when the Commission does not reach a determination on the charge, i.e. those instances described in subsections (a), (c), (d) and (e) of this section.

Subsection (f) is also amended by deleting the requirement that "Such notice shall be issued together with the reasons therefor," since this may have suggested that a full discussion of the facts was

contemplated in every instance. Dismissals made pursuant to subsections (c), (d) and (e) will generally only inform the parties that the dismissal was made pursuant to one of those sections. Dismissals made pursuant to subsection (b), i.e. "no cause" determinations, will be accompanied by a letter of determination which will identify the issues addressed and the ultimate conclusion, but will not, in most cases, contain further discussion of the reasoning which led to the conclusion. Decisions on Commissioner charges and decisions on charges in which there is not existing Commission precedent on which to base a finding of no cause are exceptions to this policy and will contain further discussion.

Before any dismissal on the merits of the charge or before the issuance of a determination, a conference will be held with the parties to review the evidence which has been gathered. The Commission has determined that it is more efficient to engage in such conferences rather than to draft a written analysis of this same material in most no-cause cases, since, with the issuance of the notice of right to sue the case file is immediately available to the charging party for review. The Commission believes that, in view of these provisions, the allocation of additional staff time to the preparation of no cause determinations would represent a reduction in the amount of staff resources available to investigate charges in a timely and effective manner and remedy discrimination which the Commission has identified in "cause" cases, and that allocating sufficient resources to these latter functions is a more productive way to carry out its statutory mandate.

**Section 1601.20.** Two commentators suggested that this section specifically provide that "nothing said or done during a negotiated settlement agreement proceeding will be made public by the Commission \* \* \*." Those comments were rejected since the subject of confidentiality is addressed in § 1601.26. One commentator stated that the Commission should not maintain that in all instances it has not considered the appropriateness of the settlement agreement. The Commission accepts this comment and the regulation is modified accordingly.

**Section 1601.21.** Several commentators addressed the reconsideration of reasonable cause findings. Some wanted reconsideration upon the motion of either party, while others wanted definite time limits placed upon reconsideration. The Commission rejects the comments because it does not wish to establish any formal, more cumbersome reconsideration procedure at this time.

Several commentators felt that the determinations of 706 Agencies should be binding upon the Commission. The Commission rejects these comments since the statute provides only that the Commission is to give "substantial weight" to the final findings and orders of such agencies. The Commission could not abdicate responsibility for making determinations on those charges under Federal law. One commentator suggested that



any 706 Agency action which terminates its proceedings be given substantial weight. While the Commission does consider all 706 Agency actions and gives them such weight as it deems appropriate, this regulation refers only to the Commission's statutory requirement to give substantial weight to final findings and orders of such agencies.

Notwithstanding the revision made to proposed § 1601.19(f), the Commission shall continue its existing practice of stating reasons for its determinations in Letters of Determination or Commission Decisions whenever the Commission finds reasonable cause to believe that the Act has been violated.

**Section 1601.22.** Some commentators assumed that this regulation represented a change in the Commission's disclosure policies. No change is contemplated. The addition of the parties' attorneys as persons to whom disclosure may be made merely reflects the Commission's prior practice.

**Section 1601.23.** Two commentators urged that the Commission not grant private parties the right to seek preliminary relief since the Commission has such authority and may exercise it on their behalf. However, private individuals' rights in this regard are not granted by the Commission; rather, this section merely recognizes an independent right already recognized by the case law.

For purposes of clarity, the Commission has changed the last sentence of subsection (b) of this section to subsection (c).

**Section 1601.24.** One commentator urged that subsection (c) be amended to note that persons who are beneficiaries of a conciliation agreement even though not signatories to such an agreement should not be able to proceed in court under section 706(f) (1) of Title VII on matters covered by the agreement. This regulation is not intended to address the rights of persons who have accepted benefits and executed waivers of Title VII rights; determination of what rights, if any, remain after waiver depends upon individual facts and circumstances. Rather, the regulation clarifies that the mere existence of a conciliation agreement is not determinative of the rights of persons not parties to the agreement.

**Section 1601.25.** Two commentators suggested that charging party and respondent be simultaneously notified of failure of conciliation. Inasmuch as the Commission does not litigate until a failure of conciliation, it rejects the suggestion that the notice to respondent of the failure of conciliation issue only after a litigation judgment is made. Since the provision of a notice to charging party of the failure of conciliation has given rise to litigation on the issue of whether such notice commences the running of the 90-day period during which suit can be filed, the Commission does not intend to give charging party this notice until after it has completed its processing of the charge by making its litigation decision. Accordingly, this section remains unchanged.

**Section 1601.26.** Comments received on this section focused on subpart (b), which was questioned as in apparent conflict with the District Court decision in *Sears, Roebuck and Co. v. EEOC*, 77-393 and 77-924 (D.D.C. July 26, 1977), motion for interlocutory appeal pending. The section, which reflects the Commission's position on the matter, remains unchanged. The section, although also applicable to settlement attempts after a determination of reasonable cause, was inserted primarily to clarify disclosure principles in light of the Commission's intention to make settlement attempts during the investigative, pre-determination phase a routine practice which will be central to its processing of charges.

The Commission has substituted the word "persons" for the word "parties" in subsection (a), which describes the necessity of obtaining written consent. This change is made to conform the subsection more precisely to the statute.

**Section 1601.28.** One commentator suggested that the Commission has no authority for subsection (a) (2), which provides for the issuance of a notice of right to sue before the passage of 180 days when the appropriate Commission official determines that the Commission will be unable to complete its administrative processing of the charge within that time period. The statute permits issuance of notices of right to sue after the passage of 180 days. The Commission is willing to issue notices before 180 days when it is clear that the administrative process cannot be completed, based on the legal principle that a party is not required to perform a useless act, i.e., wait for the passage of 180 days when the passage of such time will not accomplish any purpose.

One commentator suggested that the Commission ought not offer assistance to persons other than to persons who have received reasonable cause determinations. No rationale was presented for this assertion and the Commission does not accept it.

A suggestion that no right to sue letter should be issued when the Commission finds no reasonable cause was rejected as contrary to the statute, as was a suggestion that the charging party be required to request a notice of right to sue at a specific time after the filing of the charge, and presumably at no other time.

A general concern was raised that there would be a change in the method of measuring the 180-day period. No change is contemplated.

For the purpose of clarity, the Commission has amended subsection (b) by adding a new subsection (b) (2) to provide that when the Commission enters into a conciliation agreement to which a person claiming to be aggrieved is not a party, a notice of right to sue shall be issued to such person. This is current Commission practice. Subsection (d) has been amended by deleting the words "requests for" and by substituting the words "issued by" for the words "referred to". Subsection (e) has been amended to

separate proposed subsection (e) (3) into two subsections, (e) (3) and (e) (4). The additional subpart avoids the inference that a copy of an independent document will always be enclosed.

**Section 1601.29.** One commentator recommended that the Commission retain its former regulation (29 CFR 1601.26) by which cases arising under section 707 of the Act (pattern and practice cases) were to be referred to the Department of Justice. As we noted in our explanatory comment at 42 FR 42025, the previous reference was deleted because 707 authority was transferred to the Commission by the Equal Employment Opportunity Act of 1972.

**Section 1601.57.** A comment that a timetable should be established for the issuance of reasonable cause findings under this section was rejected on the grounds that it would be inadvisable to establish fixed timetables for its administrative process.

**Section 1601.58.** One commentator suggested that a minimum period of time be established for voluntary compliance efforts before litigation could be commenced, inferring that the Office of General Counsel might otherwise institute litigation at the earliest possible date. Since it is the Commission that determines the onset of litigation, it was not deemed pertinent to the intent of the commentator to establish such a minimum period of time for conciliation.

**Section 1601.59.** Inasmuch as the procedural regulations contemplate that notices of right to sue shall be issued only to persons claiming to be aggrieved, the title of this section was amended by deleting the reference to persons filing charges on behalf of (aggrieved) persons.

**Section 1601.70.** One commentator, addressing Subpart H in its entirety, suggested that the Commission adopt more stringent certification criteria for "706 Agencies" to insure that it would more frequently accord substantial weight to the findings and orders of such agencies. In the Commission's view, § 706(c) of Title VII of the Civil Rights Act of 1964, as amended, does not permit the Commission to adopt more stringent certification requirements. However, in order to enable the Commission to cooperate more effectively with 706 Agencies and to accept State findings and orders more frequently, the EEOC has initiated a program to work more closely with 706 Agencies, developing work-sharing agreements, mutual standards and common staff training.

**Section 1601.74.** Appropriate changes have been made to correct and update the designations of 706 Agencies.

Dated: September 19, 1977.

ELEANOR HOLMES NORTON,  
Chair, Equal Employment  
Opportunity Commission.

According, the procedural regulations of the Equal Employment Opportunity Commission, 29 CFR Part 1601, are amended to read as follows:



- Sec.  
1601.1 Purpose.
- Subpart A—Definitions**
- 1601.2 Terms defined in Title VII of the Civil Rights Act of 1964, as amended.
- 1601.3 Other definitions.
- 1601.4 Vice Chairman's functions.
- 1601.5 Region; district; supervisory authority.

- Subpart B—Procedure for the Prevention of Unlawful Employment Practices**
- 1601.6 Submission of information.
- 1601.7 Charges by or on behalf of persons claiming to be aggrieved.
- 1601.8 Where to make a charge.
- 1601.9 Form of charge.
- 1601.10 Withdrawal of a charge by a person claiming to be aggrieved.
- 1601.11 Charges by members of the Commission.
- 1601.12 Contents of charge; amendment of charge.
- 1601.13 Filing; deferrals to State and local agencies.
- 1601.14 Service of charge or notice of charge.
- INVESTIGATION OF A CHARGE**
- 1601.15 Investigative authority.
- 1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.
- 1601.17 Witnesses for public hearings.
- 1601.18 Right to inspect or copy data.

- PROCEDURE FOLLOWING FILING OF A CHARGE**
- 1601.19 Dismissal: Procedure and authority.
- 1601.20 Negotiated settlement.
- 1601.21 Reasonable cause determination: Procedure and authority.
- 1601.22 Confidentiality.

- PROCEDURE TO RECTIFY UNLAWFUL EMPLOYMENT PRACTICE**
- 1601.23 Preliminary or temporary relief.
- 1601.24 Conciliation: Procedure and authority.
- 1601.25 Failure of conciliation; notice.
- 1601.26 Confidentiality of endeavors.

- PROCEDURE CONCERNING THE INSTITUTION OF CIVIL ACTIONS**
- 1601.27 Civil Actions by the Commission.
- 1601.28 Notice of right to sue: Procedure and authority.
- 1601.29 Referral to the Attorney General.

- Subpart C—Notices to Employees, Applicants for Employment and Union Members**
- 1601.30 Notices to be posted.

- Subpart D—Interpretations and Opinions by the Commission**
- 1601.31 Request for interpretation or opinion.
- 1601.32 Contents of request; where to file.
- 1601.33 Issuance of interpretation or opinion.

- Subpart E—Construction of Rules**
- 1601.34 Rules to be liberally construed.

- Subpart F—Issuance, Amendment or Repeal of Rules**
- 1601.35 Petitions.
- 1601.36 Action on petition.

- Subpart G—Case Processing Under Section 707 of Title VII**

- 1601.50 Purpose.
- 1601.51 Delegation of authority.
- 1601.52 Initiation of section 707 charge.
- 1601.53 Service of notice of charge.
- 1601.54 Deferral.
- 1601.55 Investigation.
- 1601.56 Issuance of subpoenas; petitions to revoke subpoenas; enforcement of subpoenas.

- Sec.  
1601.57 Commission reasonable cause finding.
- 1601.58 Voluntary compliance; settlements; Commission authority to file suit.
- 1601.59 Notice to persons claiming to be aggrieved.

- Subpart H—706 Agency Designation Procedures**
- 1601.70 706 Agency designation.
- 1601.71 Commission determinations on 706 Agency applications.
- 1601.72 706 Agency performance standards.
- 1601.73 706 Agency conference.
- 1601.74 Designated 706 and Notice Agencies.

**AUTHORITY:** Sec. 713(a), Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-12(a).

#### § 1601.1 Purpose.

The regulations set forth in this part 1601 contain the procedures established by the Equal Employment Opportunity Commission for carrying out its responsibilities in the administration and enforcement of Title VII of the Civil Rights Act of 1964, as amended. Based upon its experience in the administration of the Act and upon its evaluation of suggestions and petitions for amendments submitted by interested persons in accordance with § 1601.35, the Commission may from time to time amend and revise these procedures.

#### Subpart A—Definitions

- § 1601.2 Terms defined in Title VII of the Civil Rights Act of 1964, as amended.

The terms "person," "employer," "employment agency," "labor organization," "employee," "commerce," "State" and "religion" as used herein shall have the meanings set forth in section 701 of Title VII of the Civil Rights Act of 1964, as amended.

#### § 1601.3 Other definitions.

For the purposes of this Part, the term "Title VII" or "the Act" shall mean Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972; the term "Commission" shall mean the Equal Employment Opportunity Commission or any of its designated representatives; the term "706 Agency" shall mean a state or local agency which the Commission has determined satisfies the criteria stated in section 706(c) of Title VII; and the term "verified" shall mean sworn to or affirmed before a notary public, designated representative of the Commission, or other person duly authorized by law to administer oaths and take acknowledgements, or supported by an unsworn declaration in writing under penalty of perjury.

The delegations of authority in subpart B of this part are applicable to charges filed pursuant to either section 706 or section 707 of Title VII.

#### § 1601.4 Vice Chairman's functions.

The member of the Commission designated by the President to serve as Vice Chairman shall act as Chairman in the

absence or disability of the Chairman or in the event of a vacancy in that office.

#### § 1601.5 Region; district; supervisory authority.

The term "region" as used herein shall mean that part of the United States or any territory thereof fixed by the Commission as a particular region. The term "regional director" shall refer to that person designated as the Commission's chief officer in each region. The term "district" shall mean that area within a region fixed by the Commission as a particular sub-unit of a region. The term "district director" shall refer to that person designated as the Commission's chief officer in each district. The regional director is hereby delegated all of the authority granted in this part to district directors to be exercised within the scope of his or her supervisory authority over each district director in his or her region, except with regard to model offices. The term "model office" refers to a district office which, although located within a region, has been designated by the Commission to operate under the direct supervision of the Executive Director and the General Counsel. The Executive Director is hereby delegated all of the authority granted in this part to directors of model offices to be exercised within the scope of his or her authority over such model offices. The regional offices of the General Counsel are under direct control of the Commission's General Counsel.

#### Subpart B—Procedure for the Prevention of Unlawful Employment Practices

#### § 1601.6 Submission of information.

The Commission shall receive information concerning alleged violations of Title VII from any person. Where the information discloses that a person is entitled to file a charge with the Commission, the appropriate office shall render assistance in the filing of a charge. Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systematic discrimination. Such request, with any pertinent information, should be submitted to the nearest District Office.

#### § 1601.7 Charges by or on behalf of persons claiming to be aggrieved.

(a) A charge that any person has engaged in or is engaging in an unlawful employment practice within the meaning of Title VII may be made by or on behalf of any person claiming to be aggrieved. A charge on behalf of a person claiming to be aggrieved may be made by any person, agency, or organization. The written charge need not identify by name the person on whose behalf it is made. The person making the charge, however, must provide the Commission with the name, address and telephone number of the person on whose behalf the charge is made. During the Commission investigation, Commission personnel shall verify the authorization of such charge by the person on whose behalf the charge is made. Any such person may request that the Commission shall keep his or her



identity confidential. However, such request for confidentiality shall not prevent the Commission from disclosing the identity to federal, state or local agencies that have agreed to keep such information confidential. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests for such information.

(b) The person claiming to be aggrieved has the responsibility to provide the Commission with notice of any change in address and with notice of any prolonged absence from that current address so that he or she can be located when necessary during the Commission's consideration of the charge.

**§ 1601.8 Where to make a charge.**

A charge may be made in person or by mail at the offices of the Commission in Washington, D.C., or any of its district or regional offices or with any designated representative of the Commission. The addresses of the Commission's district offices appear in § 1610.4.

**§ 1601.9 Form of charge.**

A charge shall be in writing and signed and shall be verified.

**§ 1601.10 Withdrawal of a charge by a person claiming to be aggrieved.**

A charge filed by or on behalf of a person claiming to be aggrieved may be withdrawn only by the person claiming to be aggrieved and only with the consent of the Commission. The Commission hereby delegates authority to District Directors and the Director of the Office of Compliance Programs as appropriate, to grant consent to a request to withdraw a charge, other than a Commissioner charge, where the withdrawal of the charge will not defeat the purposes of Title VII.

**§ 1601.11 Charges by members of the Commission.**

Any member of the Commission may file a charge with the Commission. Such charge shall be in writing and signed and shall be verified.

**§ 1601.12 Contents of charge; amendment of charge.**

(a) Each charge should contain the following: (1) The full name, address and telephone number of the person making the charge except as provided in § 1601.7;

(2) The full name and address of the person against whom the charge is made, if known (hereinafter referred to as the respondent);

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices: See § 1601.15(b);

(4) If known, the approximate number of employees of the respondent employer or the approximate number of members of the respondent labor organization, as the case may be; and

(5) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State or local agency charged with the enforcement of fair

employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, a charge is sufficient when the Commission receives from the person making the charge a written statement sufficiently precise to identify the parties and to describe generally the action or practices complained of. A charge may be amended to cure technical defects or omissions, including failure to verify the charge, or to clarify and amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or growing out of the subject matter of the original charge will relate back to the date the charge was first received. A charge that has been so amended shall not be required to be redeferred.

**§ 1601.13 Filing; deferrals to State and local agencies.**

(a) The timeliness of a charge shall be measured for purposes of satisfying the filing requirements of section 706(e) of Title VII by the date on which the charge is received by the Commission.

(b) The Commission shall assume jurisdiction over charges not subject to the jurisdiction of a 706 agency upon receipt.

(c) Deferral policy. (1) In order to give full weight to the policy of section 706(c) of the Act, which affords State and local fair employment practice agencies that come within the provisions of that section an opportunity to remedy alleged discrimination concurrently regulated by Title VII and State or local law, the Commission adopts the following procedures with respect to allegations of discrimination filed with the Commission where there is no evidence that such allegations were earlier presented to an appropriate 706 Agency. It is the intent of the Commission to thereby encourage the maximum degree of effectiveness in the State and local agencies. The Commission shall endeavor to maintain close communication with the State and local agencies with respect to all matters forwarded to such agencies and shall provide such assistance to State and local agencies as is permitted by law and as is practicable.

(2) Section 706(c) of Title VII grants States and their political subdivisions the exclusive right to process allegations of discrimination filed by a person other than a Commissioner for a period of sixty days or 120 days during the first year after the effective date of the qualifying State or local law. This right exists where pursuant to Subpart I of this part it has been demonstrated to the Commission that a State or local law prohibits the employment practice alleged to be unlawful and a State or local agency has been authorized to enforce and does enforce that law through civil or criminal proceedings. After the expiration of the exclusive processing period, the Commission may commence processing the allegation of discrimination.

(3) A 706 Agency may waive its right to the period of exclusive processing of

charges provided under section 706(c) of Title VII with respect to any charge or category of charges. Where a 706 Agency has waived its right to the exclusive processing period with respect to any category of charges, the Commission will assume jurisdiction over charges within that category upon receipt. Copies of such charges shall be forwarded to the appropriate 706 Agency.

(d) The following procedures shall be followed with respect to cases arising in the jurisdiction of "706 Agencies."

(1) Where any document, whether or not verified, is received by the Commission as provided in § 1601.8 which may constitute a charge cognizable under Title VII, and where the 706 Agency has not waived its right to the period of exclusive processing with respect to that document, that document shall be deferred to the appropriate 706 Agency as provided in the procedures set forth below:

(i) All such documents shall be dated and time stamped upon receipt.

(ii) If the original document does not meet the requirements of § 1601.12(a), the Commission shall endeavor to obtain a perfected complaint meeting those requirements. A copy of the original document and of the perfected complaint, if applicable, shall be transmitted by registered mail, return receipt requested, to the appropriate State or local agency, or, where the State or local agency has consented thereto, by certified mail, by regular mail or by hand delivery. State or local proceedings are deemed to have commenced on the date such document is mailed or hand delivered.

(iii) The person claiming to be aggrieved and any person filing a charge on behalf of such person shall be notified, in writing, that the document which he or she sent to the Commission has been forwarded to the State or local agency pursuant to the provisions of section 706(c).

(2) For purposes of satisfying the filing requirement of section 706(c) of Title VII, the Commission shall assume jurisdiction over a document described in paragraph (c)(1) of this section as follows:

(i) Where the document on its face constitutes a charge within a category of charges over which the 706 Agency has waived its right to the period of exclusive processing referred to in paragraph (b)(3) of this section, the Commission will assume jurisdiction over the charge upon receipt of the document;

(ii) Where the document is submitted to the Commission within 180 days from the date of the alleged violation but beyond the period of limitation of the appropriate 706 Agency, the Commission shall assume jurisdiction on receipt of the document;

(iii) Where the proceedings of a 706 Agency have been commenced pursuant to paragraph (c)(1) of this section, the Commission shall assume jurisdiction sixty (or where appropriate 120) days after the 706 Agency proceedings have been commenced, except where the Commission is earlier notified of the termination of State proceedings, it shall imme-



diately assume jurisdiction upon receipt of such notice.

(iv) Where the proceedings of a 706 Agency have been commenced less than sixty (or, where appropriate, 120) days prior to the time the Commission receives the document and those proceedings have not previously been terminated, the Commission shall assume jurisdiction 60 (or, where appropriate, 120) days after the 706 Agency proceedings have been commenced, except where the Commission is earlier notified of the termination of state proceedings, it shall immediately assume jurisdiction upon receipt of such notice.

(e) In addition to the provisions in paragraphs (a), (b) and (c) of this section and pursuant to section 705(g)(1) and section 709(b) of Title VII, the Commission shall endeavor to enter into agreements with 706 Agencies and other fair employment practice agencies to establish effective and integrated resolution procedures. Such agreements may include, but need not be limited to, cooperative arrangements to provide for processing of certain charges by the Commission, rather than by the 706 Agency during the period specified in section 706(c) and section 706(d) of Title VII.

(f) Notwithstanding the deferral provisions of this section, the Commission may make a preliminary investigation and commence judicial action for immediate, temporary or preliminary relief pursuant to section 706(f)(2) of Title VII.

(g) A charge made by a member of the Commission shall be deemed filed upon receipt by the Commission office responsible for investigating the charge. The Commission will notify a 706 Agency when an allegation of discrimination is made by a member of the Commission concerning an employment practice occurring within the jurisdiction of the 706 Agency. The 706 Agency will be entitled to process the charge exclusively for a period of not less than sixty days if the 706 Agency makes a written request to the Commission within ten days of receiving notice that the allegation has been filed. The sixty day period shall be extended to one hundred and twenty days during the first year after the effective date of the qualifying State or local law.

#### § 1601.14 Service of charge or notice of charge.

(a) Within ten days after the filing of a charge in the appropriate Commission office, the Commission shall serve respondent a copy of the charge, by mail or in person, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the Commission. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten days after the filing of the charge (including the date, place, circumstances and identity of the person filing the charge, or, in the case of a charge filed on behalf of any individual, the identity of the person or organization so filing).

(b) The District Directors, the Director of the Office of Compliance Programs, and the designated representative of each are hereby delegated the authority to issue the notice described in paragraph (a) of this section.

#### INVESTIGATION OF A CHARGE

##### § 1601.15 Investigative authority.

(a) The investigation of a charge shall be made by the Commission, its investigators, or any other representative designated by the Commission. During the course of such investigation, the Commission may utilize the services of State and local agencies which are charged with the administration of fair employment practice laws or appropriate Federal agencies, and may utilize the information gathered by such authorities or agencies. As part of each investigation, the Commission will accept any statement of position or evidence with respect to the allegations of the charge which the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, or the respondent wishes to submit.

(b) As part of the Commission's investigation, the Commission may require the person claiming to be aggrieved to provide a statement which includes

(1) a statement of each specific harm that the person has suffered and the date on which each harm occurred;

(2) for each harm, a statement specifying the act, policy or practice which is alleged to be unlawful;

(3) for each act, policy, or practice alleged to have harmed the person claiming to be aggrieved, a statement of the facts which lead the person claiming to be aggrieved to believe that the act, policy or practice is discriminatory.

(c) The Commission may require a fact-finding conference with the parties prior to a determination on a charge of discrimination. The conference is primarily an investigative forum intended to define the issues, to determine which elements are undisputed, to resolve those issues that can be resolved and to ascertain whether there is a basis for negotiated settlement of the charge.

(d) The Commission's authority to investigate a charge is not limited to the procedures outlined in paragraphs (a), (b) and (c) of this section.

##### § 1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.

(a) To effectuate the purposes of Title VII, any member of the Commission shall have the authority to sign and issue a subpoena requiring:

(i) the attendance and testimony of witnesses;

(ii) the production of evidence including, but not limited to: books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(iii) access to evidence for the purposes of examination and the right to copy.

Any District Director or any representatives designated by the Commission may

sign and issue a subpoena on behalf of the Commission. The subpoena shall state the name and address of its issuer, identify the person or evidence subpoenaed, the person to whom and the place, date, and the time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena shall be returnable to a duly authorized investigator or other representative of the Commission. Neither the person claiming to be aggrieved, the person filing a charge on behalf of such person nor the respondent shall have the right to demand that a subpoena be issued.

(b) Any person served with a subpoena who intends not to comply therewith shall, within five days (excluding Saturdays, Sundays and Federal legal holidays) after the date of service of the subpoena upon him or her, petition the Director of the Office of Compliance Programs by mail to revoke or modify the subpoena. Such petition shall be mailed to 2401 E Street NW., Washington, D.C. 20506, and a copy thereof shall be served on the person who issued the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight days after receipt thereof, or as soon thereafter as practicable, the Director of the Office of Compliance Programs, shall make a determination upon the petition, stating reasons, and shall submit the petition and determination to the Commission for its review. The Commission shall review the petition and make a final determination. A Commissioner who has issued a subpoena shall abstain from reviewing any petition to modify or revoke the subpoena. The Commission shall serve a copy of the final determination of the petition upon the petitioner. For purposes of this section, service shall be made and proof thereof established pursuant to section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. 161(4), as made applicable to Commission hearings and investigations by section 710 of Title VII: *Provided, however*, That whenever the subpoena was issued by the Director of a Model Office, the petition to revoke or modify the subpoena shall be mailed to that Director, within the 5-day period specified above, who will make a determination on the petition. Any petitioner who wishes to appeal the determination of the Director shall do so by following the standard procedures specified above. Such appeal shall, in addition, be clearly labeled as "Appeal of Petition to Revoke or Modify Subpoena," and shall attach the initial petition and determination, designated as "Attachments B and C." No argument not presented to the Director of the Model Office will be considered by the Commission.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize



the procedures of section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2), to compel enforcement of the subpoena.

(d) Witnesses who are subpoenaed pursuant to § 1601.16(a) shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

**§ 1601.17 Witnesses for public hearings.**

(a) To effectuate the purposes of Title VII, any Commissioner, upon approval of the Commission, may demand in writing that a person appear at a stated time and place within the State in which such person resides, transacts business, or is served with the demand, for the purpose of testifying under oath before the Commission or its representative. If there be noncompliance with any such demand, the Commission may utilize the procedures of section 710 of Title VII to compel such person to testify. A transcript of testimony may be made a part of the record of each investigation.

(b) Witnesses who testify as provided in paragraph (a) of this section shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

**§ 1601.18 Right to inspect or copy data.**

A person who submits data or evidence to the Commission may retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness may for good cause be limited to inspection of the official transcript of his or her testimony.

**PROCEDURE FOLLOWING FILING OF A CHARGE**

**§ 1601.19 Dismissal: Procedure and authority.**

(a) Where a charge on its face, or as amplified by the statements of the person claiming to be aggrieved discloses, or where after investigation the Commission determines, that the charge and every portion thereof is not timely filed, or otherwise fails to state a claim under Title VII, the Commission shall dismiss the charge. A charge which raises a claim exclusively under section 717 of Title VII shall not be taken and persons seeking to raise such claims shall be referred to the appropriate federal agency.

(b) Where the Commission determines after investigation that there is not reasonable cause to believe that Title VII has been violated, the Commission shall dismiss the charge.

(c) Where the person claiming to be aggrieved fails to provide requested necessary information, fails or refuses to appear or to be available for interviews or conferences as necessary, fails or refuses to provide information requested by the Commission pursuant to § 1601.15 (b), or otherwise refuses to cooperate to the extent that the Commission is unable to resolve the charge, and after due notice, the charging party has had thirty days in which to respond, the Commission may dismiss the charge.

(d) Where the person claiming to be aggrieved cannot be located, the Com-

mission may dismiss the charge: *Provided*, That reasonable efforts have been made to locate the charging party and the charging party has not responded within 30 days to a notice sent by the Commission to the person's last known address.

(e) Where a respondent has made a settlement offer described in § 1601.20 which is in writing and specific in its terms, the Commission may dismiss the charge if the person claiming to be aggrieved refuses to accept the offer: *Provided*, That the offer would afford full relief for the harm alleged by the person claiming to be aggrieved and the person claiming to be aggrieved fails to accept such an offer within 30 days after actual notice of the offer.

(f) Written notice of disposition, pursuant to paragraphs (a), (b), (c), (d), or (e) of this section, shall be issued to the person claiming to be aggrieved and to the person making the charge on behalf of such person, where applicable; in the case of a Commissioner charge, to all persons specified in § 1601.28(b)(2); and to the respondent. Appropriate notices of right to sue shall be issued pursuant to § 1601.28.

(g) The Commission hereby delegates authority to its District Directors and to the Director of the Office of Compliance Programs, as appropriate, to dismiss charges, as limited by § 1601.21(d). The authority of the Commission to reconsider decisions and determinations as set forth in § 1601.21 (b) and (d) shall be applicable to this section.

**§ 1601.20 Negotiated settlement.**

(a) Prior to the issuance of a determination as to reasonable cause, the Commission will encourage the parties to settle the charge on terms that are mutually agreeable. District Directors and the Office of Compliance Programs shall have the authority to sign any settlement agreement which is agreeable to both parties. The Commission shall limit its undertaking in such settlements to an agreement not to process that charge further. Such settlements shall note that the Commission has made no judgment on the merits of the charge. Such an agreement shall not affect the processing of any other charge, including, but not limited to, a Commissioner charge or a charge, the allegations of which are like or related to the individual allegations settled.

(b) In the alternative, the Commission may facilitate a settlement between the person claiming to be aggrieved and the respondent by permitting withdrawal of the charge pursuant to § 1601.10.

**§ 1601.21 Reasonable cause determination: Procedure and authority.**

(a) Where a charge has not been settled or dismissed, the Commission shall, after making investigative efforts, determine whether reasonable cause exists to believe that Title VII has been violated. A determination as to reasonable cause is based on, and limited to, evidence obtained by the Commission and does not reflect any judgment on the

merits of allegations not addressed in the determination.

(b) The Commission shall provide prompt notification of its determination under paragraph (a) of this section to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent. The Commission's determination is final when issued. The Commission may, however, on its own initiative reconsider its decision or the determination of any of its designated officers who have authority to issue Letters of Determination. When it does reconsider, the Commission shall provide prompt notification of its decision to amend, alter or revoke such decision or Letter of Determination to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent.

(c) Where a member of the Commission has filed a Commissioner charge, he or she shall abstain from making a determination in that case.

(d) The Commission hereby delegates to District Directors and to the Director of the Office of Compliance Programs the authority, in those cases in which previously issued Commission Decisions serve as precedent for the determination and in those cases in which the Commission's Guidelines provide a statement of policy which serves as authority for the determination, upon completion of an investigation, to dismiss a charge, make a determination, issue a Letter of Determination and serve a copy thereof upon the parties. Such determination is final when the Letter of Determination is issued. However, the Director of the Office of Compliance Programs and each District Director for determinations issued by his or her office may on his or her own initiative reconsider determinations. When he or she has done so, the issuing Director shall promptly notify the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent of his or her decision to amend, alter or revoke such Letter of Determination.

(e) In making a determination as to whether reasonable cause exists, substantial weight shall be accorded final findings and orders made by designated 706 Agencies to which the Commission defers charges pursuant to § 1601.13. For the purposes of this section, the following definitions shall apply:

(1) "Final findings and orders" shall mean: (i) The findings of fact and order incident thereto issued by a 706 Agency on the merits of a charge; or



(ii) The consent order or consent decree entered into by the 706 Agency on the merits of a charge.

*Provided, however,* That no findings and order of a 706 Agency shall be considered final for purposes of this section unless the 706 Agency shall have served a copy of such findings and order upon the Commission and upon the person claiming to be aggrieved and shall have informed such person of his or her rights of appeal or to request reconsideration, or rehearing or similar rights; and the time for such appeal, reconsideration, or rehearing request shall have expired or the issues of such appeal, reconsideration or rehearing shall have been determined.

(2) "Substantial weight" shall mean that such full and careful consideration shall be accorded to final findings and orders, as defined above, as is appropriate in light of the facts supporting them when they meet all of the prerequisites set forth below:

(i) The proceedings were fair and regular; and

(ii) The practices prohibited by the State or local law are comparable in scope to the practices prohibited by Federal law; and

(iii) The final findings and order serve the interest of the effective enforcement of Title VII: *Provided,* That giving substantial weight to final findings and orders of a 706 Agency does not include according weight, for purposes of applying Federal law, to such Agency's conclusions of law.

#### § 1601.22 Confidentiality.

Neither a charge, nor information obtained pursuant to section 709(a) of Title VII, nor information obtained from records required to be kept or reports required to be filed pursuant to section 709 (c) and (d) of Title VII, shall be made matters of public information by the Commission prior to the institution of any proceedings under this Title involving such charge or information. This provision does not apply to such earlier disclosures to charging parties or their attorneys, respondents or their attorneys, or witnesses where disclosure is deemed necessary for securing appropriate relief. This provision also does not apply to such earlier disclosures to representatives of interested Federal, State, and local authorities as may be appropriate or necessary to the carrying out of the Commission's function under Title VII, nor to the publication of data derived from such information in a form which does not reveal the identity of charging parties, respondents, or persons supplying the information.

#### PROCEDURE TO RECTIFY UNLAWFUL EMPLOYMENT PRACTICES

#### § 1601.23 Preliminary or temporary relief.

(a) In the interest of the expeditious procedure required by section 706(f)(2) of Title VII, the Commission hereby delegates to the Director of the Office of Compliance Programs and each District Director the authority, upon the basis

of a preliminary investigation, to make the initial determination on its behalf that prompt judicial action is necessary to carry out the purposes of the Act and recommend such action to the General Counsel. The Commission authorizes the General Counsel to institute an appropriate action on behalf of the Commission in such a case not involving a government, governmental agency, or political subdivision.

(b) In a case involving a government, governmental agency, or political subdivision, any recommendation for preliminary or temporary relief shall be transmitted directly to the Attorney General by the Director of the Office of Compliance Programs or the District Director.

(c) Nothing in this section shall be construed to prohibit private individuals from exercising their rights to seek temporary or preliminary relief on their own motion.

#### § 1601.24 Conciliation: Procedure and authority.

(a) Where the Commission determines that there is reasonable cause to believe that an unlawful employment practice has occurred or is occurring, it shall endeavor to eliminate such practice by informal methods of conference, conciliation, and persuasion. In conciliating a case in which a determination of reasonable cause has been made, the Commission shall attempt to achieve a just resolution of all violations found and to obtain agreement that the respondent will eliminate the unlawful employment practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the conciliation agreement shall be reduced to writing and shall be signed by the Commission's designated representative and the parties. A copy of the signed agreement shall be sent to the respondent and the person claiming to be aggrieved who are signatories thereto.

(b) District Directors, the Director of the Office of Compliance Programs and their designated representatives are hereby delegated authority to enter into informal conciliation efforts. District Directors and the Director of the Office of Compliance Programs are hereby delegated the authority to sign conciliation agreements. When a suit brought by the Commission is in litigation, the General Counsel is hereby delegated the authority to negotiate and sign conciliation agreements where, pursuant to section 706(f)(1) of Title VII, a court has stayed proceedings in the case pending further efforts of the Commission to obtain voluntary compliance.

(c) Proof of compliance with Title VII in accordance with the terms of the agreement shall be obtained by the Commission before the case is closed. In those instances in which a person claiming to be aggrieved or a member of the class claimed to be aggrieved by the practices alleged in the charge is not a party to such an agreement, the agreement shall not extinguish or in any way prejudice the rights of such person to proceed in

court under section 706(f)(1) of Title VII.

#### § 1601.25 Failure of conciliation; notice.

Where the Commission is unable to obtain voluntary compliance as provided by Title VII and it determines that further efforts to do so would be futile or nonproductive, it shall, through the appropriate District Director, the Director of the Office of Compliance Programs, or their designated representatives, so notify the respondent in writing.

#### § 1601.26 Confidentiality of endeavors.

(a) Nothing that is said or done during and as part of the informal endeavors of the Commission to eliminate unlawful employment practices by informal methods of conference, conciliation, and persuasion may be made a matter of public information by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. This provision does not apply to such disclosures to the representatives of Federal, State or local agencies as may be appropriate or necessary to the carrying out of the Commission's functions under Title VII: *Provided, however,* That the Commission may refuse to make disclosures to any such agency which does not maintain the confidentiality of such endeavors in accord with this section or in any circumstances where the disclosures will not serve the purposes of the effective enforcement of Title VII.

(b) Factual information obtained by the Commission during such informal endeavors, if such information is otherwise obtainable by the Commission under section 709 of Title VII, for disclosure purposes will be considered by the Commission as obtained during the investigatory process.

#### PROCEDURE CONCERNING THE INSTITUTION OF CIVIL ACTIONS

#### § 1601.27 Civil actions by the Commission.

The Commission may bring a civil action against any respondent named in a charge not a government, governmental agency or political subdivision, after thirty (30) days from the date of the filing of a charge with the Commission unless a conciliation agreement acceptable to the Commission has been secured: *Provided, however,* That the Commission may seek preliminary or temporary relief pursuant to section 706(f)(3) of Title VII, according to the procedures set forth in § 1601.23 hereof, at any time.

#### § 1601.28 Notice of right to sue: Procedure and authority.

(a) Issuance of notice of right to sue upon request. (1) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission shall promptly issue such notice as described in § 1601.28(e) to all parties, at



any time after the expiration of one hundred eighty (180) days from the date of filing of the charge with the Commission, or in the case of a Commissioner charge 180 days after the filing of the charge or 180 days after the expiration of any period of reference under Section 706(d) of Title VII as appropriate.

(2) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued, and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission may issue such notice as described in § 1601.28(e) with copies to all parties, at any time prior to the expiration of 180 days from the date of filing the charge with the Commission; *Provided*, that the District Director or the Director of the Office of Compliance Programs has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.

(3) Issuance of a notice of right to sue shall terminate further processing of any charge not a Commissioner charge unless the Director of the Office of Compliance Programs, the appropriate District Director, or the General Counsel, determines at that time or at a later time that it would effectuate the purposes of Title VII to further process the charge. Issuance of a notice of right to sue shall not terminate the processing of a Commissioner charge.

(4) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(b) Issuance of notice of right to sue following Commission disposition of a charge.

(1) Where the Commission has found reasonable cause to believe that the Act has been violated, has been unable to obtain voluntary compliance with Title VII, and where the Commission has decided not to bring a civil action against the respondent, it will issue a notice of right to sue on the charge as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or,

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class,

and provide a copy thereof to all parties.

(2) Where the Commission has entered into a conciliation agreement to which the person claiming to be aggrieved is not a party, the Commission shall issue a notice of right to sue on the charge to the person claiming to be aggrieved.

(3) Where the Commission has dismissed a charge pursuant to § 1601.19, it shall issue a notice of right to sue as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or,

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class,

and provide a copy thereof to all parties.

(4) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(c) The Commission hereby delegates authority to District Directors and the Director of the Office of Compliance Programs to issue notices of right to sue, in accordance with this section, on behalf of the Commission.<sup>1</sup>

(d) Notices of right to sue for charges against Governmental respondents. Notices of right to sue in cases where the respondent is a government, governmental agency, or a political subdivision thereof, shall be issued by the Attorney General, who has the authority to issue such notices.

(e) Content of notice of right to sue. The notice of right to sue shall include:

(1) Authorization to the aggrieved person to bring a civil action pursuant to section 706(f)(1) of the Act within 90 days from receipt of such authorization;

(2) Advice concerning the institution of such civil action by the person claiming to be aggrieved, where appropriate;

(3) A copy of the charge

(4) The Commission's decision, determination, or dismissal, as appropriate.

#### § 1601.29 Referral to the Attorney General.

If the Commission is unable to obtain voluntary compliance in a charge involving a government, governmental agency or political subdivision, it shall inform the Attorney General of the appropriate facts in the case with recommendations for the institution of a civil action by him or her against such respondent or for intervention by him or her in a civil action previously instituted by the person claiming to be aggrieved.

#### Subpart C—Notices to Employees, Applicants for Employment and Union Members

##### § 1601.30 Notices to be posted.

(a) Every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment,

<sup>1</sup> Formal Ratification—Notice is hereby given that the EEOC at a Commission meeting on March 12, 1974, formally ratified the acts of the District Directors of EEOC District Offices in issuing notices of right to sue pursuant to Commission practice instituted on October 15, 1969, and continued through March 18, 1974. 39 FR 10178 (March 18, 1974).

members, and trainees, are customarily posted the following notice:

#### EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW

##### DISCRIMINATION IS PROHIBITED

By the Civil Rights Act of 1964, as amended, and by Executive Order Numbers 11246 and 11375.

Title VII of the Civil Rights Act of 1964, as amended, administered by the Equal Employment Opportunity Commission prohibits discrimination because of Race, Color, Religion, Sex, or National Origin by employers with 15 or more employees, by Labor Organizations having a hiring hall or 15 or more members, by Employment Agencies, and by Joint Labor-Management Committees for Apprenticeship or Training.

Any person who believes he or she has been discriminated against should contact: The Equal Employment Opportunity Commission, 2401 E Street N.W., Washington, D.C. 20506 or any of its district offices.

Executive Order Numbers 11246 and 11375 administered by the Office of Federal Contract Compliance Programs prohibits discrimination because of Race, Color, Religion, Sex or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment by all Federal Government Contractors and Subcontractors, and by contractors and subcontractors performing work under a Federally assisted construction contract regardless of the number of employees in either case.

Any person who believes he or she has been discriminated against should contact:

The Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210.

(b) Copies of such notice may be obtained on request from the Commission.

(c) Section 711(b) of Title VII makes failure to comply with this section punishable by a fine of not more than \$100 for each separate offense.

#### Subpart D—Interpretations and Opinions by the Commission

##### § 1601.31 Request for interpretation or opinion.

Any interested person desiring a written interpretation or opinion from the Commission may make a request therefor. However, issuance of such interpretations or opinions is discretionary.

##### § 1601.32 Contents of request; where to file.

A request for an "opinion letter" shall be in writing, signed by the person making the request, addressed to the Chairman, Equal Employment Opportunity Commission, 2401 E Street N.W., Washington, D.C. 20506, and shall contain:

(a) The names and addresses of the person making the request and of other interested persons.

(b) A statement of all known relevant facts.

(c) A statement of reasons why the interpretation or opinion should be issued.

##### § 1601.33 Issuance of interpretation or opinion.

Only (a) a letter entitled "opinion letter" and signed by the General Counsel on behalf of the Commission or (b) matter published and specifically designated as such in the FEDERAL REGISTER may be relied upon as "written interpretation or



opinion of the Commission" within the meaning of section 713 of Title VII.

#### Subpart E—Construction of Rules

##### § 1601.34 Rules to be liberally construed.

These rules and regulations shall be liberally construed to effectuate the purpose and provisions of Title VII.

#### Subpart F—Issuance, Amendment, or Repeal of Rules

##### § 1601.35 Petitions.

Any interested person may petition the Commission, in writing, for the issuance, amendment, or repeal of a rule or regulation. Such petition shall be filed with the Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, and shall state the rule or regulation proposed to be issued, amended, or repealed, together with a statement of grounds in support of such petition.

##### § 1601.36 Action on petition.

Upon the filing of such petition, the Commission shall consider the same and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate proceeding thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial be self-explanatory.

#### Subpart G—Case Processing Under Section 707 of Title VII

##### § 1601.50 Purpose.

The General Counsel shall process charges designated for processing under the Commission's authority as set forth in Section 707 of the Act in accordance with this subpart. The provisions of this subpart shall not apply when such charges are processed under Subpart B of this part.

##### § 1601.51 Delegation of authority.

The General Counsel is hereby delegated authority to give notice of and to defer charges to State and local 706 Agencies as defined in § 1601.3, to give notice of charges to respondents, to investigate charges, to sign and issue subpoenas, and to conciliate charges of employment discrimination.

##### § 1601.52 Initiation of Section 707 charge.

Any member of the Commission may designate a charge for Section 707 processing under this subpart. Any related charge shall be processed under this subpart if the General Counsel determines that it should be consolidated with the charge designated for Section 707 processing by a member of the Commission.

##### § 1601.53 Service of notice of charge.

Within 10 days of the filing of a charge, the General Counsel shall furnish the respondent with a notice of

the charge (including the date, place and circumstances of the alleged unlawful employment practice) by mail or in person. The General Counsel need not furnish such notice if, prior to the designation of the charge for Section 707 processing, the notice has been furnished pursuant to § 1601.14.

##### § 1601.54 Deferral.

(a) Where the alleged unlawful employment practice occurs in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local agency to grant or seek relief from such practice (or to institute criminal proceedings), the General Counsel shall notify, on behalf of the Commission, the appropriate State or local 706 Agency, as defined in § 1601.3, before taking any action with respect to a Commissioner charge.

(b) The General Counsel, on behalf of the Commission, shall not defer such Commissioner charge unless the State or political subdivision notified in paragraph (a) of this section within 10 days of receipt of such notice requests submission of the charge to its jurisdiction.

(c) Where deferral is made by the General Counsel in paragraph (b) of this section, the deferral shall be for no less than 60 days, unless a shorter period is requested.

(d) Charges filed by individuals shall be deferred pursuant to the provisions of § 1601.13, except that they shall be deferred by the General Counsel.

##### § 1601.55 Investigation.

The General Counsel shall investigate any charge designated for Section 707 processing or any charges consolidated with that charge pursuant to § 1601.52.

##### § 1601.56 Issuance of subpoenas; petitions to revoke subpoenas; enforcement of subpoenas.

(a) To effectuate the purposes of Title VII the General Counsel of the Commission shall have the authority to sign and issue a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purposes of examination and the right to copy.

The subpoena shall state the name and address of the issuer; and identify the person or evidence subpoenaed, and the person to whom and the place, date, and time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena may be returnable to any attorney designated in the subpoena. The General Counsel shall not issue a subpoena upon the request of a person filing a charge, a person on whose behalf a charge was filed or a respondent.

(b) Any person served with a subpoena who intends not to comply with the subpoena shall, within five days (excluding Saturdays, Sundays and Federal legal holidays) of the service of the subpoena, petition the Commission in writing to revoke or modify the subpoena. The petition shall be served on the Director of the Office of Compliance Programs by mail at the Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506, and a copy shall be served on the Commission attorney to whom the subpoena is returnable. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each portion, the grounds upon which petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight days of receipt, or as soon thereafter as practicable, the Commission shall pass on the petition and shall serve a copy of its determination on the petitioner. For the purposes of this section, service shall be made and proof thereof established pursuant to Section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. Section 161(4), as made applicable to the proceeding hereunder by Section 710 of Title VII, 42 U.S.C. (Supp. II) 2000e9.

(c) If any person fails to comply with a subpoena, the General Counsel may institute enforcement proceedings in the appropriate district court pursuant to Section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2).

(d) Witnesses who are subpoenaed pursuant to Section 1601.56(a) shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

##### § 1601.57 Commission reasonable cause finding.

Upon completion of the investigation, the Commission shall determine whether there exists reasonable cause to believe that the respondent is engaged in a pattern or practice of unlawful discrimination within the meaning of section 707 (a) of Title VII. A finding of no reasonable cause shall constitute dismissal of the charge.

##### § 1601.58 Voluntary compliance; settlements; Commission authority to file suit.

A finding of reasonable cause by the Commission shall be deemed to authorize the General Counsel to endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation and persuasion. Should such endeavors fail to produce a conciliation agreement satisfactory to the General Counsel, the General Counsel may commence litigation upon approval by the Commission.

##### § 1601.59 Notice to persons claiming to be aggrieved.

In any charge designated for processing under this subpart, the General Counsel shall issue the notice as required by § 1601.28.



Subpart H—706 Agency Designation Procedures

§ 1601.70 706 Agency Designation.

(a) Because of the large number of State and local fair employment practice agencies, only those agencies which notify the Commission of their qualifications under section 706(c) of Title VII and this section and request designation as "706 Agencies" or "Notice Agencies" or both will be eligible for such designation. Such notification must be submitted by written request to the Director of the Office of Compliance Programs. The request shall include the following materials and information:

(1) A copy of the agency's fair employment practices law and any rules, regulations and guidelines of general interpretation issued pursuant thereto.

(2) A chart of the organization of the agency responsible for administering and enforcing said law.

(3) The amount of funds made available to or allocated by the agency for fair employment purposes.

(4) The identity and telephone number of the agency attorney whom the Commission may contact in reference to any legal questions that may arise in the process of its review of the agency's application.

(5) A statement certifying the following:

(i) That the State or political subdivision has a fair employment practice law;

(ii) That such law authorizes the applicant agency to grant or seek relief from employment practices found to be illegal under such law or that it authorizes the agency to institute criminal proceedings; and

(iii) That such agency has been established and is operational and processing charges filed under such law.

(b) Where both State and local 706 Agencies exist, the Commission reserves the right to defer to the State 706 Agency only. However, if the Commission determines that it would best serve the purposes of the Act, it may defer to either or both State and local 706 Agencies.

(c) The continued designation of a 706 Agency for certain bases of discrimination will be dependent upon the 706 Agency's continuing operation and ability to grant or seek relief or to institute criminal proceedings with respect to those bases of discrimination.

§ 1601.71 Commission determinations on 706 agency applications.

The Commission, after examining the materials and application required in § 1601.70(a) and after applying criteria outlined in section 706(c) of Title VII, shall make a determination.

(1) If the Commission determines that an agency shall be designated as a 706 Agency, it shall notify the agency that it proposes to issue such designation. Such proposed designation shall be published in the FEDERAL REGISTER and shall provide any person or organization not less than 15 days in which to file written comments with the Commission. If after evaluating any comments so received, the Commission is still of the opinion

that issuance of the proposed designation as published in the FEDERAL REGISTER is appropriate, it shall effect such designation by issuance and publication of an amendment to § 1601.74. Thereafter, the procedure in § 1601.13(c) and § 1601.13(f) shall be followed for charges in the jurisdiction of the 706 Agency, except as modified by agreement pursuant to § 1601.13(d).

(2) If the Commission determines that any agency shall not be designated as a 706 Agency, it shall notify the applicant agency of its decision and such notice shall provide the reason(s) why it proposes not to designate the agency and shall grant it not less than 15 days to request a conference concerning the matter in accordance with § 1601.73.

(3) Where the Commission determines that a State or local agency does not come within the definition of a 706 Agency for purposes of a particular basis of discrimination or where the agency applies for designation as a Notice Agency, the Commission shall notify that agency of the filing of charges for which the agency is not a 706 Agency. For such purposes the State or local agency will be deemed a Notice Agency.

§ 1601.72 706 Agency performance standards.

(a) The continued designation of a 706 Agency will be dependent upon the 706 Agency's willingness and ability to administer its law in such a manner that, in fact, the practices prohibited are comparable in scope to those practices prohibited under Federal law and satisfy the performance standards set forth below:

(1) In all cases where the 706 Agency finds cause to credit the allegations of a charge, it shall effectively eliminate the discrimination and provide for full compensatory and prospective relief consistent with applicable Federal law, except where State or local law authorizes no relief except to allow the agency to institute criminal proceedings. Where State or local law does no more than authorize the agency to institute criminal proceedings, the agency must utilize its authority effectively to eliminate the discrimination.

(2) In all cases where the 706 Agency enters into a conciliation agreement, consent order, or order after public hearing, it shall include in any such agreement or order mechanisms for monitoring compliance with the terms thereof and mechanisms for enforcing compliance in the event any terms thereof are not implemented.

(b) The Commission may upon its own motion, withdraw the designation as a 706 Agency previously issued to any agency based upon:

(1) Reconsideration of the request and materials and the information referenced in § 1601.70; or,

(2) consideration of the agency's performance as set forth in paragraph (a) of this section.

Whenever the Commission has reason to believe that such designation as a 706 Agency no longer serves the interest of

effective enforcement of Title VII, it may, after following the procedures below, including the opportunity for a conference provided for in § 1601.73, withdraw such designation. Before taking such action it shall notify the 706 Agency of its proposed withdrawal of such designation. Such notification shall set forth the reasons for the proposed withdrawal and provide the agency not less than 15 days to submit data, views, and arguments in opposition and to request a conference in accordance with § 1601.73. Such proposed withdrawal of designation shall also be published in the FEDERAL REGISTER and shall provide any persons or organizations who take an interest at least 15 days in which to file written comments on the proposal with the Commission and to request a conference. If a request for a conference in accordance with § 1601.73 is not received within the time period provided, the Commission shall evaluate any arguments or comments it has received from the agency and from any persons and organizations who take an interest. If, after such evaluation, the Commission still is of the opinion that designation should be withdrawn because it has determined that such designation no longer serves the interest of effective enforcement of Title VII, the Commission shall so notify the Agency. The withdrawal shall be effected by the issuance and publication of an amendment to § 1601.74.

§ 1601.73 706 Agency Conference.

In order to provide a State or local agency full opportunity to present its views whenever, pursuant to § 1601.71 or § 1601.72(b), a conference is requested within the time allowed by said section for making such request, the Executive Director or his or her designee shall hold such a conference. Said conference official shall issue a pre-conference order. The order shall indicate the issues to be resolved and any initial procedural instructions which might be appropriate for the particular conference. It shall fix the date, time, and place of the conference. The date shall not be less than 20 days after the date of the order. The date and place shall be subject to change for good cause.

(1) A copy of such pre-conference order shall be served on the State or local agency. After service of the order or of a notice designating a conference officer, and until such officer submits his or her recommended determination, all communications relating to the subject matter of the conference shall be addressed to him or her. The conference officer shall have authority to regulate the course and conduct of the conference. A transcript shall be made of the proceedings at the conference. The transcript and all comments and petitions relating to the proceedings shall be made available for inspection by interested persons.

(2) The conference officer shall prepare his or her proposed findings and recommended determination, a copy of which shall be served on the agency. Within 20 days after such service the agency may file written exceptions. After the expiration of the period for filing exceptions,



the conference officer shall certify the entire record, including his or her proposed findings, and recommended determination and exceptions thereto to the Commission, which shall review the record and issue a final determination.

(3) Such determination shall become effective by the issuance and publication of an amendment to § 1601.74.

#### § 1601.74 Designated 706 and notice agencies.

##### (a) The designated 706 Agencies are:

Alaska Commission for Human Rights.  
Alexandria Human Rights Office.  
Allentown Human Relations Commission.  
Arizona Civil Rights Division.  
Baltimore Community Relations Commission.  
Bloomington Human Rights Commission.  
California Fair Employment Practices Commission.  
Charleston Human Rights Commission.  
Colorado Civil Rights Commission.  
Connecticut Commission on Human Rights and Opportunities.  
Dade County Fair Housing and Employment Commission.  
Delaware Department of Labor.  
District of Columbia Office of Human Rights.  
East Chicago Human Relations Commission.  
Evansville (Indiana) Human Relations Commission.  
Fairfax County Human Rights Commission.  
Fort Wayne (Indiana) Metropolitan Human Relations Commission.  
Fort Worth (Texas) Human Relations Commission.  
Gary Human Relations Commission.  
Howard County (Maryland) Human Rights Commission.  
Hawaii Department of Labor and Industrial Relations.  
Idaho Commission on Human Rights.  
Illinois Fair Employment Practices Commission.  
Indiana Civil Rights Commission.  
Iowa Commission on Civil Rights.  
Kansas Commission on Civil Rights.  
Kentucky Commission on Human Rights.  
Lexington-Fayette Urban County Human Rights Commission.  
Madison (Wisconsin) Equal Opportunities Commission.  
Maine Human Relations Commission.  
Maryland Commission on Human Relations.  
Massachusetts Commission Against Discrimination.  
Michigan Civil Rights Commission.  
Minneapolis Department of Civil Rights.  
Minnesota Department of Human Rights.  
Missouri Commission on Human Rights.  
Montana Commission for Human Rights.  
Montgomery County Human Relations Commission.  
Nebraska Equal Opportunity Commission.  
Nevada Commission on Equal Rights of Citizens.  
New Hampshire Commission for Human Rights.  
New Jersey Division on Civil Rights, Department of Law and Public Safety.  
New York City Commission on Human Rights.  
New York State Division of Human Rights.  
Ohio Civil Rights Commission.  
Oklahoma Human Rights Commission.  
Omaha Human Relations Department.  
Oregon Bureau of Labor.  
Orlando (Florida) Human Relations Department.  
Pennsylvania Human Relations Commission.  
Philadelphia Commission on Human Relations.  
Pittsburgh Commission on Human Relations.

Prince Georges County (Maryland) Human Relations Commission.  
Rhode Island Commission for Human Rights.  
Rockville (Maryland) Human Rights Commission.  
St. Paul Department of Human Rights.  
Seattle Human Rights Commission.  
Sioux Falls (South Dakota) Human Relations Commission.  
South Bend (Indiana) Human Rights Commission.  
South Dakota Division of Human Rights.  
South Dakota Human Relations Commission.  
Springfield (Ohio) Human Relations Department.  
Tacoma Human Rights Commission.  
Utah Industrial Commission.  
Vermont Attorney General's Office, Civil Rights Division.  
Virgin Island Department of Labor.  
Washington State Human Rights Commission.  
West Virginia Human Rights Commission.  
Wheeling Human Rights Commission.  
Wichita Commission on Civil Rights.  
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations.  
Wyoming Fair Employment Practices Commission.

##### (b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources.  
Florida Commission on Human Relations.  
Georgia Office of Human Affairs.  
Montana Department of Labor and Industry.  
North Dakota Commission on Labor.  
Ohio Director of Industrial Relations.  
Raleigh (North Carolina) Human Resources Department, Civil Rights Unit.

[FR Doc. 76-27715 Filed 9-21-76; 8:45 am]

#### Title 43—Public Lands: Interior CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

##### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5623]

[Montana 37274]

##### SOUTH DAKOTA

#### Modification of Public Land Order No. 1168

##### Correction

In FR Doc. 77-25331, on page 43842 in the issue of Wednesday, August 31, 1977, the 7th line should read, "EFFECTIVE DATE: August 31, 1977." Also, in the 2d full paragraph, the 1st line should read, "Public Land Order No. 1168 of June 15, . . .".

##### Title 50—Wildlife and Fisheries

#### CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

##### SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION AND IMPORTATION OF WILDLIFE AND PLANTS

##### PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

#### Final Rule; Correction and Augmentation of Published Rulemaking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; Correction and augmentation of published rulemaking on Critical Habitats.

SUMMARY: Errors that appeared in the Fish and Wildlife Service's FEDERAL REGISTER publication of August 11, 1977 (42 FR 40685), determining Critical Habitat for six species, are corrected; the list of all Critical Habitats that was included in that publication is reprinted and augmented with Critical Habitat for the giant anole and five fishes which have been published in the interim.

EFFECTIVE DATE: September 22, 1977.  
FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (Phone: 202-343-4646).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

The descriptions and maps of Critical Habitats that were published in 42 FR 40685 are herein republished, with the errors that originally appeared in that document corrected. A map of the Critical Habitat for the St. Croix ground lizard, which was inadvertently excluded from 42 FR 40685, is published here, and maps of Critical Habitats for the giant anole, and five fish species for which Critical Habitats were determined subsequent to 42 FR 40685, are added in order to make the present publication complete. Because the Critical Habitat of the giant anole is not subject to coordinate description, no written description of it is attempted.

The primary author of this is John L. Paradise, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-343-7814).

##### REPUBLICATION OF CRITICAL HABITATS AND MAPS

Subpart F—Critical Habitat is corrected to read as set forth below:

##### Subpart F—Critical Habitat

§§ 17.60–17.66 [Deleted]

##### Subpart I—Interagency Cooperation

§§ 17.90–17.94 [Reserved]

§ 17.95 Critical habitat—fish and wildlife.

The following areas (exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species) are Critical Habitat for the species indicated. Pursuant to Section 7 of the Act, all Federal agencies must insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of these areas:

##### (a) Mammals.

##### INDIANA BAT (*Myotis sodalis*)

Illinois. The Blackball Mine, La Salle County.

Indiana. Big Wyandotte Cave, Crawford County; Ray's Cave, Greene County.

Kentucky. Bat Cave, Carter County; Coach Cave, Edmonson County.

Missouri. Cave 021, Crawford County; Cave 009, Franklin County; Cave 017, Frank-



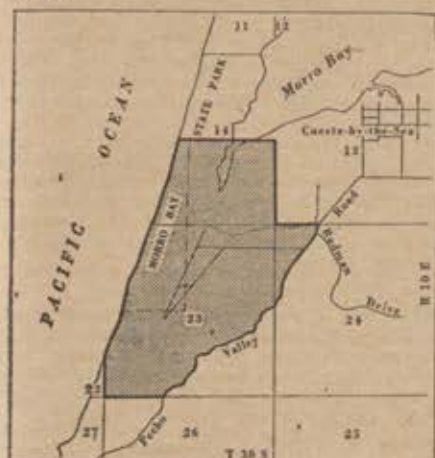
lin County; Pilot Knob Mine, Iron County; Bat Cave, Shannon County; Cave 029, Washington County (numbers assigned by Division of Ecological Services, U.S. Fish and Wildlife Service, Region 6).

Tennessee. White Oak Blowhole Cave, Blount County.

West Virginia. Hellhole Cave, Pendleton County.

**MORRO BAY KANGAROO RAT (*Dipodomys heermanni morroensis*)**

California. An area of land, water, and airspace in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R10E S $\frac{1}{2}$  Sec. 14, those portions of Sec. 23-24 west of Pecho Valley Road.



CRITICAL HABITAT FOR THE MORRO BAY KANGAROO RAT

**FLORIDA MANATEE (*Trichechus manatus*)**

Florida. Crystal River and its headwaters known as King's Bay, Citrus County; the Little Manatee River downstream from the U.S. Highway 301 bridge, Hillsborough County; the Manatee River downstream from the Lake Manatee Dam, Manatee County; the Myakka River downstream from Myakka River State Park, Sarasota and Charlotte Counties; the Peace River downstream from the Florida State Highway 760 bridge, De Soto and Charlotte Counties; Charlotte Harbor north of the Charlotte-Lee county line, Charlotte County; Caloosahatchee River downstream from the Florida State Highway 31 bridge, Lee County; all U.S. territorial waters adjoining the coast and islands of Lee County; all U.S. territorial waters adjoining the coast and islands and all connected bays, estuaries, and rivers from Gordon's Pass, near Naples, Collier County, southward to and including Whitewater Bay, Monroe County; all waters of Card, Barnes, Blackwater, Little Blackwater, Manatee, and Buttonwood sounds between Key Largo, Monroe County, and the mainland of Dade County; Biscayne Bay, and all adjoining and connected lakes, rivers, canals, and waterways from the southern tip of Key Biscayne northward to and including Maule Lake, Dade County; all of Lake Worth, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway A1A southward to its southernmost point immediately north of the town of Boynton Beach, Palm Beach County; the Loxahatchee River and its headwaters, Martin and West Palm Beach Counties; that section of the Intracoastal waterway from the town of Sewalls Point, Martin

County to Jupiter Inlet, Palm Beach County; the entire inland section of water known as the Indian River, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway 3, Volusia County, southward to its southernmost point near the town of Seawalls Point, Martin County, and the entire inland section of water known as the Banana River and all waterways between Indian and Banana rivers, Brevard County; the St. Johns River including Lake George, and including Blue Springs and Silver Glen Springs from their points of origin to their confluences with the St. Johns River; that section of the Intracoastal Waterway from its confluence with the St. Marys River on the Georgia-Florida border to the Florida State Highway A1A bridge south of Coastal City, Nassau and Duval Counties.

**(b) Birds.**

**CALIFORNIA CONDOR (*Gymnogyps californianus*)**

California. Sespe-Piru Condor Area: an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Los Angeles Counties, with the following components (San Bernardino Meridian): Sespe Condor Sanctuary, as delineated by Public Land Order 695 (January 1951); T4N R20W Sec. 2, 5-10, N $\frac{1}{2}$  Sec. 11; T4N R21W Sec. 1-3, 10-12, N $\frac{1}{2}$  Sec. 13, N $\frac{1}{2}$  Sec. 14, N $\frac{1}{2}$  Sec. 15; T5N R18W Sec. 4-9, 18, 19, 30, 31, N $\frac{1}{2}$  Sec. 3, N $\frac{1}{2}$  Sec. 17; T5N R21W Sec. 1-4, 9-16, 21-28, 33-36; T6N R18W Sec. 7-11, 14-23, 26-35; T6N R19W Sec. 7-36; T6N R20W Sec. 8-36; T6N R21W Sec. 13-36; T6N R22W Sec. 3-26, 35, 36; T6N R23W Sec. 1-3, 10-14, 24, N $\frac{1}{2}$  Sec. 23; T7N R22W Sec. 31; T7N R23W Sec. 34-36.

Matilija Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Santa Barbara Counties, with the following components (San Bernardino Meridian): T5N R24W W $\frac{1}{2}$  Sec. 3, Sec. 4-11, 14, 15, N $\frac{1}{2}$  Sec. 16, N $\frac{1}{2}$  Sec. 17; T5N R25W E $\frac{1}{2}$  Sec. 1, NE $\frac{1}{4}$  Sec. 12; T5 $\frac{1}{2}$ N R24W Sec. 31-34; T6N R24W S $\frac{1}{2}$  Sec. 32, S $\frac{1}{2}$  Sec. 33, S $\frac{1}{2}$  Sec. 34.

Sisquoc-San Rafael Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Santa Barbara County, with the following components (San Bernardino Meridian): T6N R26W Sec. 5, 6; T6N R27W Sec. 1, 2; T7N R26W Sec. 5-8, 17-20, 29-32; T7N R27W Sec. 1-14, 23-26, 35, 36; T7N R28W Sec. 1, 2, 11, 12; T8N R26W Sec. 19-22, 27-34; T8N R27W Sec. 19-36.

Hi Mountain-Beartrap Condor Areas: Areas of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R16E Sec. 13, 14, 23-26, SE $\frac{1}{4}$  Sec. 11, S $\frac{1}{2}$  Sec. 12; T30S R17E Sec. 17-20, 29, 30; T31S R14E Sec. 1, 2, 11, 12, E $\frac{1}{2}$  Sec. 3, E $\frac{1}{2}$  Sec. 10, N $\frac{1}{2}$  Sec. 14, N $\frac{1}{2}$  Sec. 13; T31S R15E W $\frac{1}{2}$  Sec. 6, W $\frac{1}{2}$  Sec. 7, NW $\frac{1}{4}$  Sec. 18.

Mt. Pinos Condor Area: An area of land, water, and airspace in Ventura and Kern Counties, with the following components (San Bernardino Meridian): T8N R21W W $\frac{1}{2}$  Sec. 5, Sec. 6 N $\frac{1}{2}$  Sec. 7, NW $\frac{1}{4}$  Sec. 8; T8N R22W Sec. 1, 2, E $\frac{1}{2}$  Sec. 3, NE $\frac{1}{4}$  Sec. 10, N $\frac{1}{2}$  Sec. 11, N $\frac{1}{2}$  Sec. 12; T9N R21W Sec. 31, 32, W $\frac{1}{2}$  Sec. 33; T9N R22W E $\frac{1}{2}$  Sec. 35, Sec. 36.

Blue Ridge Condor Area: An area of land, water, and airspace in Tulare County, with the following components (Mt. Diablo Meridian): T19S R29E Sec. 5-9, 15-22, 27-30.

Tejon Ranch: An area of land, water, and airspace in Kern County, with the following components (San Bernardino Meridian): R16W T10N, R17W T10N, R17W T11N, R18W T9N, R18W T10N, R19W T10N.

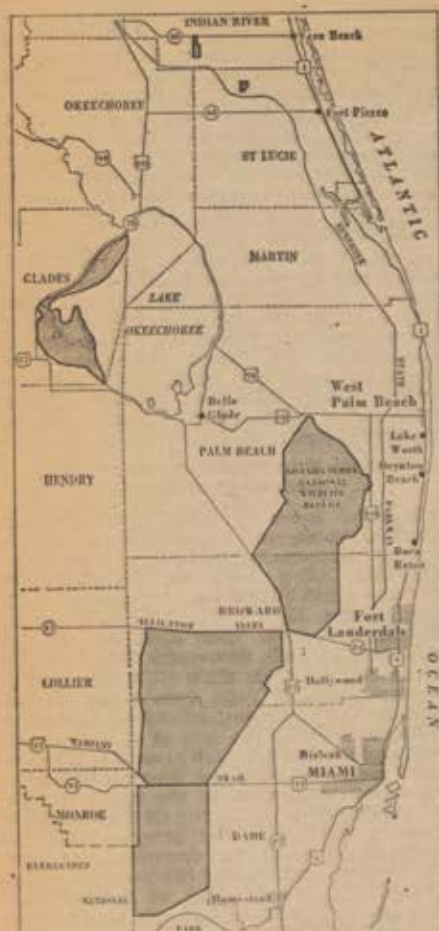
Kern County rangelands: An area of land, water, and airspace in Kern County between California State Highway 65 and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R29E T25S, R29E T26S, R30E T25S, R30E T26S.

Tulare County rangelands: An area of land, water, and airspace in Tulare County between California State Highway 65, State Highway 198, and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R28E T18S (all sections); R28E T19S (all sections); R28E T20S (all sections); R28E T21S Sec. 1-18; R29E T20S (all sections); R29E T21S Sec. 1-18.

**FLORIDA EVERGLADE KITE (*Rostrhamus sociabilis plumbeus*)**

Florida. Areas of land (predominantly marsh), water, and airspace, with the following components (Tallahassee Meridian): (1) St. Johns Reservoir, Indian River County: T33S R37E SW $\frac{1}{4}$  Sec. 6, W $\frac{1}{2}$  Sec. 7, Sec. 18, Sec. 19; (2) Cloud Lake Reservoir, St. Lucie County: T34S R38E S $\frac{1}{2}$  Sec. 16, N $\frac{1}{2}$  Sec. 21; (3) Strazulla Reservoir, St. Lucie County: T34S R38E SW $\frac{1}{4}$  Sec. 21; (4) western parts of Lake Okeechobee, Glades and Hendry Counties, extending along the western shore to the east of the levee system and the undiked high ground at Fisheating Creek, and from the Hurricane Gate at Clewiston northward to the mouth of the Kissimmee River, including all the *Eleocharis* flats of Moonshine Bay, Monkey Box, and Observation Shoal, but excluding the open water north and west of the northern tip of Observation Shoal, north of Monkey Box, and east of Fisheating Bay; (5) Loxahatchee National Wildlife Refuge (Central and Southern Florida Flood Control District Water Conservation Area 1), Palm Beach County, including Refuge Management Compartments A, B, C, and D, and all of the main portion of the Refuge as bounded by Levees L-7, L-39, and L-40; (6) Central and Southern Florida Flood Control District Water Conservation Area 2A, Palm Beach and Broward Counties, as bounded by Levees L-6, L-35B, L-36, L-38, and L-39; (7) Central and Southern Florida Flood Control District Water Conservation Area 2B, Broward County, as bounded by Levees L-35, L-35B, L-36, and L-38; (8) Central and Southern Florida Flood Control District Water Conservation Area 3A, Broward and Dade Counties, as bounded by Florida Highway 84, Levees L-68A, L-67A (north of Miami Canal), L-87C (south of Miami Canal), L-29, and L-28, and a line along the undiked northwestern portion of the Area; (9) that portion of Everglades National Park, Dade County, within the following boundary: beginning at the point where the Park boundary meets Florida Highway 94 in T54S R35E Sec. 20, thence eastward and southwest along the Park boundary to the southwest corner of Sec. 31 in T7S R37E, thence southward along a straight line to the southwest corner of Sec. 2 in T68S R35E, thence westward along the south sides of Sec. 3, 4, 5, and 6 in T68S R35E to the Dade-Monroe county line, thence northward along the Dade-Monroe county line to the Park boundary, thence eastward and northward along the Park boundary to the point of beginning.





CRITICAL HABITAT FOR THE  
FLORIDA EVERGLADE KITE  
AMERICAN PEREGRINE FALCON  
(*Falco peregrinus anatum*)

California. Dry Creek Zone: areas of land, water, and airspace in Sonoma County, with the following components (Mt. Diablo Base Meridian): (1) T10N R11W W $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 6, W $\frac{1}{2}$  of NW $\frac{1}{4}$  Sec. 6, NW $\frac{1}{4}$  of NW $\frac{1}{4}$  Sec. 7; T10N R12W Sec. 1, E $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 2, SW $\frac{1}{4}$  of NE $\frac{1}{4}$  Sec. 2, SE $\frac{1}{4}$  Sec. 2, E $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 2, SE $\frac{1}{4}$  of NW $\frac{1}{4}$  Sec. 2, N $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 11, NE $\frac{1}{4}$  of NW $\frac{1}{4}$  Sec. 11, N $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 12, N $\frac{1}{2}$  of NW $\frac{1}{4}$  Sec. 12; T11N R11W SW $\frac{1}{4}$  of SE $\frac{1}{4}$  Sec. 31, S $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 31; T11N R12W S $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 36, SE $\frac{1}{4}$  of SW $\frac{1}{4}$  Sec. 36; (2) T10N R11W NW $\frac{1}{4}$  of SW $\frac{1}{4}$  Sec. 1, W $\frac{1}{2}$  of NW $\frac{1}{4}$  Sec. 1, N $\frac{1}{2}$  Sec. 2, N $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 2, N $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 2, N $\frac{1}{2}$  Sec. 3, N $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 3, N $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 3, NE $\frac{1}{4}$  Sec. 4, N $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 4, NE $\frac{1}{4}$  of SW $\frac{1}{4}$  Sec. 4, E $\frac{1}{2}$  of NW $\frac{1}{4}$  Sec. 4; T11N R11W E $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 33, S $\frac{1}{2}$  Sec. 34, S $\frac{1}{2}$  Sec. 35, W $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 36, SW $\frac{1}{4}$  Sec. 36; (3) T11N R12W S $\frac{1}{2}$  Sec. 19, Sec. 30; T11N R13W SE $\frac{1}{4}$  Sec. 24, E $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 24, E $\frac{1}{2}$  Sec. 25, E $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 25, E $\frac{1}{2}$  of NW $\frac{1}{4}$  Sec. 25.

Palisades-Table Rock Zone: an area of land, water, and airspace in Napa County, with the following components (Mt. Diablo Base Meridian): T9N R6W S $\frac{1}{2}$  Sec. 5, S $\frac{1}{2}$  Sec. 6, Sec. 7, Sec. 8, Sec. 9, Sec. 16, Sec. 17, Sec. 18, Sec. 19, Sec. 20; T9N R7W E $\frac{1}{2}$  Sec. 12, E $\frac{1}{2}$  Sec. 13, NE $\frac{1}{4}$  Sec. 24, E $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 24.

Mount St. Helena Zone: An area of land, water, and airspace in Lake, Napa, and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T9N R7W W $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 3, W $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 3, W $\frac{1}{2}$  Sec. 3, Sec. 4, E $\frac{1}{2}$  Sec. 5, E $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 5, E $\frac{1}{2}$  of

NW $\frac{1}{4}$  Sec. 5; T10N R7W that portion of Sec. 20 east of Ida Clayton Road, Sec. 21, W $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 22, W $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 22, W $\frac{1}{2}$  Sec. 22, W $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 27, W $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 27, W $\frac{1}{2}$  Sec. 27, Sec. 28, that portion of Sec. 29 east of Ida Clayton Road, that portion of the NE $\frac{1}{4}$  Sec. 32 east and south of Ida Clayton Road, SE $\frac{1}{4}$  Sec. 32, E $\frac{1}{2}$  of SW $\frac{1}{4}$  Sec. 32, that portion of the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  Sec. 32 south of the Ida Clayton Road, Sec. 33, W $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec. 34, W $\frac{1}{2}$  of SE $\frac{1}{4}$  Sec. 34, W $\frac{1}{2}$  Sec. 34.



CRITICAL HABITAT FOR THE AMERICAN  
PEREGRINE FALCON

#### PALLA (*Puffinrostra bailloni*)

HAWAII. An area of land, water, and airspace on the Island of Hawaii, Hawaii County, with the following components: (1) The State of Hawaii Mauna Kea Forest Reserve, except (a) that portion above the 10,000 foot contour line, (b) that portion south of the Saddle Road (State Highway 20), (c) lands owned by the United States in the Pohakuloa Training Area north of the Saddle Road (State Highway 20) established by Executive Order 1719 (Parcel 6, State of Hawaii Tax Map Key 4-4-16, Third Division), (d) that portion (Parcel 10, Kaohi IV, State of Hawaii Tax Map Key 4-4-16, Third Division) lying north of the Saddle Road (State Highway 20) and south of the Power Line Road; (2) that portion of the State of Hawaii Kaohi Game Management Area (Parcel 4, State of Hawaii Tax Map Key 4-4-15, Third Division) to the north and east of the Saddle Road (State Highway 20); (3) that portion of the Upper Waikii Paddock (Parcel 2, State of Hawaii Tax Map Key 4-4-15, Third Division) northeast of the Saddle Road (State Highway 20); (4) that portion of the lands of Humuula between Puu Kahinahina and Kole lying southeast of the Mauna Kea Forest Reserve fence (portions of Parcels 2, 3, and 7, State of Hawaii Tax Map Key 3-8-



CRITICAL HABITAT FOR THE PALLA

1. Third Division) which are included in the State conservation district.

#### YELLOW-SHOULDERED BLACKBIRD (*Agelaius xanthomus*)

Puerto Rico. Areas of land, water, and airspace with the following components: (1) All of Mona Island; (2) that portion of the main island of Puerto Rico within the following boundary: Beginning at a point where the Quebrada Boqueron joins the Bahía de Boqueron, thence proceeding southwesterly along the coast to Cabo Rojo, thence eastward along the coast, including offshore cays, to the point where Highway 332 meets the Bahía de Guanica, thence northward on Highway 332 to its junction with Highway 116, thence westward on Highway 116 to its junction with Highway 305, thence westward on Highway 305 to its junction with Highway 303, thence northward on Highway 303 to its junction with Highway 101, thence westward on Highway 101 to the point where it crosses Quebrada Boqueron, thence along the Quebrada Boqueron to the point where it joins the Bahía de Boqueron; (3) a circular portion of the main island of Puerto Rico with a one mile radius, the center being the junction of Highways 360 and 102 in the town of San German; (4) Roosevelt Roads Naval Station, southeast of Ceiba.

#### DUSKY SEASIDE SPARROW (*Ammodramus maritima nigrescens*)

Florida. Cordgrass (*Spartina bakeri*) savannas and associated land, water, and airspace within the following boundary, Brevard County: Beginning at the point where Florida Highway 528 intersects Interstate Highway 95; thence westward along Florida Highways 528 and 520 to the main channel of the St. Johns River; thence northward along said channel to Florida Highway 46; thence eastward along Florida Highway 46 to Interstate Highway 95; thence southward along Interstate Highway 95 to the point of beginning. Marshes and associated airspace within the mosquito control impoundments designated by the Brevard County Mosquito Control District as T-10-J and T-10-K, northwest of Florida Highway 406 on the Merritt Island National Wildlife Refuge, Brevard County.



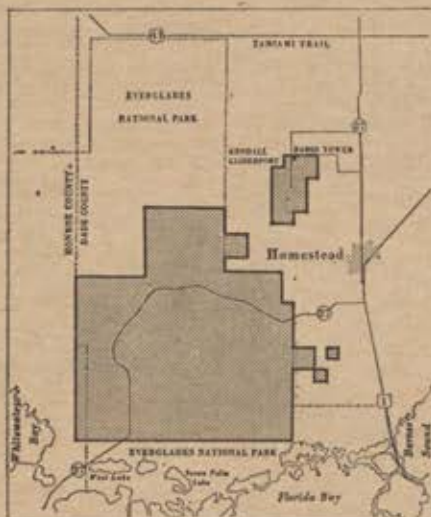
CRITICAL HABITAT FOR THE DUSKY SEASIDE  
SPARROW

#### CAPE SABLE SPARROW (*Ammodramus maritima mirabilis*)

Florida. Areas of land, water, and airspace in the Taylor Slough vicinity of Collier, Dade, and Monroe counties, with the following components (Tallahassee Meridian):



Those portions of Everglades National Park within T57S R36E, T57S R36½E, T57S R37E, T58S R35E, T58S R36E, T58S R37E, T58½S R36E, T58½S R36½E, T59S R35E, T59S R36E, T59S R37E. Areas outside of Everglades National Park within T55S R37E Sec. 36; T55S R38E Sec. 31, 32; T56S R37E Sec. 1, 2, 11-14, 23-26; T56S R38E Sec. 5-7, 18, 19; T57S R37E Sec. 5-8, T58S R38E Sec. 27, 29-32; T59S R38E Sec. 4.



CRITICAL HABITAT FOR THE CAPE SABLE SPARROW

(c) Reptiles.

AMERICAN CROCODILE (*Crocodylus acutus*)

Florida. All land and water within the following boundary: Beginning at the easternmost tip of Turkey Point, Dade County, on the coast of Biscayne Bay; thence southeastward along a straight line to Christmas Point at the southernmost tip of Elliott Key; thence southwestward along a line following the shores of the Atlantic Ocean side of Old Rhodes Key, Palo Alto Key, Angelfish Key, Key Largo, Plantation Key, Windley Key, Upper Matecumbe Key, Lower Matecumbe Key, and Long Key, to the westernmost tip of Long Key; thence northward along a straight line to the westernmost tip of Middle Cape; thence northward along the shore of the Gulf of Mexico to the north side of the mouth of Little Sable Creek; thence eastward along a straight line to the northernmost point of Nine-Mile Pond; thence northeastward along a straight line to the point of beginning.

ST. CROIX GROUND LIZARD  
(*Ameiva polops*)

U.S. Virgin Islands. Protestant Cay, roughly defined by the coordinates 64° 42'15" N. and 17°45'7.5" W.; and Green Cay, roughly defined by the coordinates 67°37'30" N. and 17°46'15" W.



CRITICAL HABITAT FOR THE ST. CROIX GROUND LIZARD



CRITICAL HABITAT FOR THE GIANT ANOLE

GIANT ANOLE (*Anole roosevelti*)

(d) [Reserved]

(e) Fishes.

SNAIL DARTER (*Percina tanasi*)

Tennessee. From river mile 0.5 to river mile 17 of the Little Tennessee River, Loudon County, as shown on a map entitled "Tellico Project," prepared by Tennessee Valley Authority, Bureau of Water Control Planning, August 1965 (map 65-MS-453 K 501).

SLENDER CHUB (*Hybopsis caini*)

Tennessee. Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line. Clinch River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line. Virginia. Lee and Scott Counties. Powell River, main channel from the Tennessee-Virginia State line upstream through Lee County, Va. Clinch River, main channel from the Tennessee-Virginia State line upstream through Scott County, Va.





CRITICAL HABITAT FOR THE SLENDER CHUB

**SPOTTIN CHUB (*Hybopsis monacha*)**

North Carolina, Macon and Swain Counties. Little Tennessee River, main channel from the backwaters of Fontana Lake upstream to the North Carolina-Georgia State line.



CRITICAL HABITAT FOR THE SPOTTIN CHUB

Tennessee. Cumberland, Pentress, and Morgan Counties. Emory and Obed Rivers and Clear and Daddys Creek in Morgan County. Clear Creek in Pentress County. Obed River upstream to U.S. Interstate Highway 40. Clear Creek upstream to U.S. Interstate Highway 40 and Daddys Creek upstream to U.S. Highway 127 in Cumberland County.



CRITICAL HABITAT FOR THE SPOTTIN CHUB

Tennessee. Hawkins and Sullivan Counties. North Fork Holston, main channel upstream from junction with South Fork Holston River to the Tennessee-Virginia State line.

Virginia. Scott and Washington Counties. North Fork Holston River, main channel from the Virginia-Tennessee State line upstream through Scott and Washington Counties.



CRITICAL HABITAT FOR THE SPOTTIN CHUB

**SLACKWATER DARTER (*Etheostoma boschungii*)**

Alabama. Lauderdale County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress Creek and its tributaries upstream from the junction of Burcham Creek, including Burcham Creek, excluding Threet Creek and its tributaries.

Tennessee. Wayne County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress and Middle Cypress Creek drainage.



CRITICAL HABITAT FOR THE SLACKWATER DARTER

Tennessee. Lawrence County. Buffalo River and its tributaries in Lawrence County, Tenn.



CRITICAL HABITAT FOR THE SLACKWATER DARTER



**YELLOWFIN MADTOM (*Noturus flavipinnis*)**

Tennessee, Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.

Virginia. Lee, Scott, and Russell Counties. Powell River, main channel from the Virginia-Tennessee State line upstream through Lee County. Copper Creek, main channel from its junction with Clinch River upstream through Scott County and upstream in Russell County to Dickensonville.



CRITICAL HABITAT FOR THE YELLOWFIN MADTOM

Alabama: Lauderdale County.

(f)-(j) [Reserved]

§ 17.96 Critical habitat—plants [Reserved]

Dated: September 15, 1977.

WALTER R. MCALLESTER,  
Acting Director,  
Fish and Wildlife Service.

[FR Doc.77-27542 Filed 9-21-77;8:45 am]

**PART 32—HUNTING**

Opening of Arrowwood National Wildlife Refuge, North Dakota, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates November 11, 1977 through November 20, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, North Dakota 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.5 Special regulations; deer hunting; for individual wildlife refuge areas.

Deer hunting is permitted on the Arrowwood National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to deer

hunting. These areas comprising 14,814 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225.

Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12:00 noon to sunset November 11, 1977 and from sunrise to sunset November 12, 1977 through November 20, 1977.

(2) From 12:00 noon November 11, 1977 through sunset November 13, 1977 hunting is permitted by special refuge permit only, thereafter hunting is permitted to anyone possessing a valid state license for the unit encompassing the refuge.

(3) That part of the refuge lying north of the gravel road, known as the Kensal-Edmunds road, will be closed to deer hunting.

The provisions of this special regulation supplement the regulations which govern deer hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,  
Refuge Manager.

SEPTEMBER 15, 1977.

[FR Doc.77-27647 Filed 9-21-77;8:45 am]

**PART 32—HUNTING**

Opening of Arrowwood National Wildlife Refuge, North Dakota, to Fox Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to fox hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates October 22, 1977 through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, North Dakota 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.5 Special regulations; fox hunting; for individual wildlife refuge areas.

Fox hunting is permitted on the Arrowwood National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to fox hunting. These areas comprising 15,900 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12:00 noon to sunset October 22, 1977 and from one-half hour before sunrise to sunset October 23, 1977 through January 31, 1978.

(2) During the deer gun season red fox may be taken only by those hunters possessing a valid deer hunting license for the refuge and only on that part of the refuge open to deer hunting.

The provisions of this special regulation supplement the regulations which govern fox hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,  
Refuge Manager.

SEPTEMBER 15, 1977.

[FR Doc.77-27648 Filed 9-21-77;8:45 am]

**PART 32—HUNTING**

Opening of Arrowwood National Wildlife Refuge, North Dakota, to Upland Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland bird hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will